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PLR-137358-13

Date:

September 30, 2014

### Legend

Distributing =

Controlled /  
Controlled LLC =

Sub 1 =

Sub 2 =

Sub 3 =

Sub 4 =

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2

Sub 5 =

Sub 6 =

Sub 7 =

Sub 8 =

Sub 9 =

Sub 10 =

Sub 11 =

Sub 12 =

Sub 13 =

Sub 14 =

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3

Sub 15 =

FSub 1 =

FSub 2 =

FSub 3 =

FSub 4 =

FSub 5 =

FSub 6 =

FSub 7 =

FSub 8 =

FSub 9 =

FSub 10 =

FSub 11 =

FSub 12 =

FSub 13 =

FSub 14 =

FSub 15 =

FSub 16 =

FSub 17 =

FSub 18 =

FSub 19 =

FSub 20 =

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5

FSub 21 =

PS 1 =

PS 2 =

PS 3 =

PS 4 =

PS 5 =

FDE 1 =

FDE 2 =

FDE 3 =

FDE 4 =

Business 1 =

Business 1A =

Business 1B =

Business 1C =

Business 2 =

Business 3 =

Business 1 Entities =

Additional Business  
1 Entities =

State A =

State B =

State C =

State D =

Country A =

Country B =

Country C =

Country D =

Country E =

Country F =

Country G =

Country H =

Date 1 =

Date 2 =

Date 3 =

Date 4 =

Date 5 =

Date 6 =

Date 7 =

Date 8 =

Date 9 =

Date 10 =

Date 11 =

Date 12 =

Date 13 =

Date 14 =

Date 15 =

Month 1 =

a =

b =

c =

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g =

h =

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j =

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l =

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o =

p =

q =

r =

s =

t =

Dear :

This letter responds to your letter dated August 22, 2013, submitted by your authorized representatives, requesting rulings on certain U.S. federal income tax consequences of a proposed transaction (the “Proposed Transaction,” as described below). The material information submitted in that request and in subsequent correspondence is summarized below.



The rulings contained in this letter are based on facts and representations submitted by the taxpayer and accompanied by a “penalties of perjury” statement executed by an appropriate party. This office has not verified any of the materials submitted in support of the request for rulings. Verification of the information, representations, and other data may be required as part of the audit process.

Moreover, this office has not verified any information pertaining to, and has made no determination regarding, whether any of the Internal Distributions or the External Distribution (each as defined below): (i) satisfies the business purpose requirement of Treas. Reg. § 1.355-2(b) of the Income Tax Regulations; (ii) is used principally as a device for the distribution of the earnings and profits of any distributing corporation or any controlled corporation or both (see section 355(a)(1)(B) of the Internal Revenue Code (the “Code”) and § 1.355-2(d)); and (iii) is part of a plan (or series of related transactions) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50-percent or greater interest in any distributing corporation or any controlled corporation (see section 355(e) and § 1.355-7).

## Facts

### *Overview*

Distributing is a publicly traded State A corporation and the parent of a worldwide group of entities (the “Distributing Worldwide Group”). Distributing also is the common parent of an affiliated group of corporations filing a consolidated U.S. federal income tax return (the “Distributing Consolidated Group”). Distributing has a single class of common stock outstanding (the “Distributing Common Stock”) and two series of publicly traded preferred stock outstanding (collectively, the “Distributing Preferred Stock”). The Distributing Preferred Stock represents less than a% of the combined value of the Distributing Common Stock and the Distributing Preferred Stock. Distributing also has various stock-based compensatory arrangements outstanding, including stock options, restricted stock units, dividend equivalent units, performance-based stock units, and stock appreciation rights (collectively, “stock-based compensation”).

The Distributing Worldwide Group is engaged in various businesses that are aggregated into reportable segments. These reportable segments include Business 1, Business 2, and Business 3, among others. In turn, Business 1 is composed of three business lines—Business 1A, Business 1B, and Business 1C. The Distributing Worldwide Group’s businesses other than Business 1 are collectively referred to herein as the “Retained Businesses,” and the assets used in such businesses are referred to herein as the “Retained Business Assets.”

### *Organizational Structure Relevant to Domestic Separation Transactions*

Distributing wholly and directly owns the stock of Sub 1 (a State B corporation) and Sub 2 (a State A corporation). Distributing also directly owns b% of the outstanding interests in PS 1, a State A limited liability company that is treated as a partnership for U.S. federal income tax purposes. An unrelated third party owns the remaining interests in PS 1.

Sub 1 wholly and directly owns the stock of Sub 3 and Sub 4 (each, a State B corporation) and Sub 5 (a State C corporation). Sub 1 also wholly and directly owns certain other U.S. corporations, none of which own material assets or conduct material operations.

Sub 3 wholly and directly owns the stock of Sub 6 (a State B corporation), Sub 7 (a State C corporation), and Sub 8 (a State D corporation). In turn, Sub 8 wholly and directly owns the stock of Sub 9 (a State D corporation), which wholly and directly owns the stock of FSub 1, a Country A entity that is treated as a corporation for U.S. federal income tax purposes.

Sub 6 and Sub 7 own c% and a%, respectively, of the outstanding interests in PS 2, a State A partnership. Sub 4, Sub 5, and Sub 6 also own d%, e%, and f%, respectively, of the outstanding interests in PS 3, a State A partnership.

Sub 1 indirectly conducts Business 1B and Business 1C through Sub 3. Sub 1 also indirectly conducts Business 3 through Sub 9, FSub 1, and PS 3.

Subs 1 through 9 (described above) and Subs 10 through 15 (described below) are members of the Distributing Consolidated Group.

#### *Organizational Structure Relevant to Country B Separation Transactions*

Distributing wholly and indirectly owns the stock of FSub 2, a Country C entity that is treated as a corporation for U.S. federal income tax purposes. FSub 2 directly owns shares possessing g% of the vote and h% of the value of the stock of FSub 3, a Country D entity that is treated as a corporation for U.S. federal income tax purposes; the remaining stock of FSub 3 is owned by another member of the Distributing Worldwide Group. Prior to the Country B Separation Transactions described below, FSub 2 and FSub 3 directly owned i% and j%, respectively, of the interests in PS 4, a Country B entity that is treated as a partnership for U.S. federal income tax purposes. FSub 3 will retain its interest in PS 4 after the Proposed Transaction.

Distributing also directly owns i% of the issued and outstanding stock of FSub 4, a Country B entity that is treated as a corporation for U.S. federal income tax purposes. Prior to the Country B Separation Transactions described below, the remaining j% of the stock of FSub 4 was owned by PS 4.

FSub 4 directly owns  $i\%$  of the issued and outstanding stock of both FSub 5 and FSub 6 (each a Country B entity that is treated as a corporation for U.S. federal income tax purposes). The remaining  $i\%$  of the stock of these entities is owned by Distributing.

FSub 4 also directly owns  $k\%$  of the issued and outstanding stock of both FSub 7 and FSub 8 (each a Country B entity that is treated as a corporation for U.S. federal income tax purposes) (together, the “Joint Ventures”). The remaining stock of the Joint Ventures is owned by unrelated third parties.

In addition, FSub 4 directly owns  $j\%$  of the issued and outstanding stock of FSub 9, a Country B entity that is treated as a corporation for U.S. federal income tax purposes. Prior to the Country B Separation Transactions described below, FSub 6 and Distributing owned the remaining stock of FSub 9. FSub 9 conducts, among other businesses, Business 1 and Business 2 in Country B.

Distributing also wholly and directly owns the stock of FSub 10, a Country E entity that is treated as a corporation for U.S. federal income tax purposes. FSub 10 wholly and directly owns FDE 1, a Country F entity that is disregarded as an entity separate from FSub 10 for U.S. federal income tax purposes. FDE 1 conducts, among other businesses, Business 1 in Country F.

#### *Organizational Structure Relevant to Country G Separation Transactions*

Distributing wholly and directly owns the stock of Sub 10, a State A corporation. Sub 10 wholly and directly owns the stock of FSub 11 (a Country E entity) and FSub 12 (a Country G entity), each of which is treated as a corporation for U.S. federal income tax purposes. In turn, FSub 11 wholly and directly owns the common and preferred stock of FSub 13, a Country G entity treated as a corporation for U.S. federal income tax purposes. FSub 12 and FSub 13 both conduct Business 1A in Country G. FSub 13 also conducts Business 2, among other businesses.

#### *Organizational Structure Relevant to Country H Separation Transactions*

Distributing wholly and directly owns the common and preferred stock of Sub 11, a State A corporation. Sub 11 wholly and directly owns the stock of FSub 14, a Country H entity that is treated as a corporation for U.S. federal income tax purposes. FSub 14 conducts Business 1 in Country H and other countries. FSub 14 also conducts Business 2, among other businesses. Sub 11, through its subsidiaries, also indirectly owns all of the interests in PS 5, a Country D entity that is treated as a partnership for U.S. federal income tax purposes. Sub 11 also owns (directly or indirectly) all or a portion of the stock of the Business 1 Entities, each of which is a non-U.S. entity engaged in Business 1.

#### *Additional Information Regarding Organizational Structure*

As of Month 1, Distributing was the debtor on intercompany notes due to Sub 1, Sub 2, PS 1, and PS 2; Sub 3 was the debtor on an intercompany note due to Distributing; Sub 1 was the debtor on an intercompany note due to Sub 9; and PS 3 was the debtor on an intercompany note due to Sub 1.

As of Date 1, Distributing had approximately \$m of long-term debt to unrelated parties outstanding (the “Distributing Date 1 Debt”).

Distributing also wholly and indirectly owns the stock of the Additional Business 1 Entities, each of which is a U.S. or non-U.S. entity engaged in Business 1. (The stock of the Additional Business 1 entities will be distributed to Distributing prior to the Global Separation Transactions (as described below).)

### Proposed Transaction

As part of a broader restructuring of the Distributing Worldwide Group, Distributing has undertaken or will undertake the following series of transactions (together, the “Proposed Transaction”) for the following corporate business purposes: (i) to more closely align the Distributing Worldwide Group’s businesses with its evolving strategic direction; and (ii) to free Business 1 of capital and other constraints necessarily applicable to a business that no longer aligns closely with the Distributing Worldwide Group’s strategic direction.

The Domestic Separation Transactions and the Separation Transactions in Country B, Country G, and Country H will precede the Global Separation Transactions (each as described below).

### *Domestic Separation Transactions*

The following is a description of the steps of the Domestic Separation Transactions, which will be completed in the order specified below. The Domestic Separation Transactions will facilitate the Global Separation Transactions by separating the Retained Businesses from Business 1.

- 1) Distributing will transfer cash to PS 2 in repayment of a% of PS 2’s note receivable due from Distributing.
- 2) PS 2 will distribute (i) to Sub 6, PS 2’s note receivable due from Distributing, and (ii) to Sub 7, the cash received from Distributing in Step 1 of the Domestic Separation Transactions (the “PS 2 Distribution”).
- 3) Sub 7 will distribute to Sub 3 the cash received from PS 2 in Step 2 of the Domestic Separation Transactions.

- 4) Sub 6 will convert from a State B corporation to a State B domestic single-member limited liability company that will be disregarded as an entity separate from Sub 3 (the “Sub 6 Conversion”) for U.S. federal income tax purposes.
- 5) Sub 6 will distribute to Sub 3 (i) the note receivable due from Distributing, and (ii) its  $f\%$  partnership interest in PS 3. This transaction will be disregarded for U.S. federal income tax purposes.
- 6) In exchange for no additional consideration, Sub 3 will transfer to Sub 8 (i) the note receivable due from Distributing, and (ii) its  $f\%$  partnership interest in PS 3 (the “First Sub 8 Contribution”).
- 7) Sub 3 will distribute all of the stock of Sub 8 to Sub 1 (the “First Sub 8 Distribution” and, together with the First Sub 8 Contribution, the “First Sub 8 Separation”). The First Sub 8 Distribution may be undertaken as a pro rata distribution on the Sub 3 stock owned by Sub 1 or, alternatively, as a non-pro rata distribution in exchange for specifically identified shares of Sub 3 stock owned by Sub 1.
- 8) In partial exchange for Sub 8’s assumption of Sub 1’s note payable due to Sub 9, Sub 1 will transfer to Sub 8 (i) all of the stock of each of Sub 4 and Sub 5, and (ii) Sub 1’s notes receivable due from Distributing and PS 3 (the “Second Sub 8 Contribution”).
- 9) Sub 1 will distribute all of the stock of Sub 8 to Distributing (the “Second Sub 8 Distribution” and, together with the Second Sub 8 Contribution, the “Second Sub 8 Separation”). The Second Sub 8 Distribution may be undertaken as a pro rata distribution on the Sub 1 stock owned by Distributing or, alternatively, as a non-pro rata distribution in exchange for specifically identified shares of Sub 1 stock owned by Distributing.

For purposes of the First Sub 8 Separation, Sub 3 will rely on its direct conduct of Businesses 1B and 1C (collectively, “Sub 3 Business 1”) to satisfy the active trade or business requirement of section 355(b), and Sub 8 will rely on Business 3 as conducted by Sub 9 (“Sub 9 Business 3”) (Sub 9 will be a member of the Sub 8 SAG, as defined below). For purposes of the Second Sub 8 Separation, Sub 1 will rely on Sub 3 Business 1 (Sub 3 will be a member of the Sub 1 SAG, as defined below), and Sub 8 will rely on Sub 9 Business 3. Financial information has been submitted indicating that each of Sub 3 Business 1 and Sub 9 Business 3 has had gross receipts and operating expenses representing the active conduct of a trade or business for each of the past five years.

#### *Country B Separation Transactions*

The following is a description of the steps of the Country B Separation Transactions, which have been completed or will be completed in the order specified below. The Country B Separation Transactions will facilitate the Global Separation Transactions by separating the Retained Businesses from Business 1.

- 1) On Date 2, Distributing formed Sub 12, a State A holding company.
- 2) On Date 3, FSub 6 sold its FSub 9 stock (which had nominal value) to FSub 5.
- 3) On Date 3, PS 4 distributed its cash on hand (approximately \$n) to FSub 2 and FSub 3. Following this step, the value of the assets held by PS 4 was nominal.
- 4) On Date 3, PS 4 sold its FSub 4 stock (which had nominal value) to FSub 3.
- 5) On Date 4, FSub 2 sold all of its PS 4 interests (which had nominal value) to Distributing.
- 6) On Date 5, Distributing transferred all of its FSub 4 stock to Sub 12 in exchange for additional stock therein.
- 7) On Date 6, Distributing formed a new State A limited liability company ("Controlled LLC") that is disregarded as an entity separate from Distributing for U.S. federal income tax purposes.
- 8) On Date 7, Distributing transferred all of its Sub 12 stock to Controlled LLC. This transaction is disregarded for U.S. federal income tax purposes.
- 9) On Date 8, Distributing sold all of its PS 4 interests (which had nominal value) to FSub 4.
- 10) On Date 10, Sub 12 formed a new Country F entity (FSub 15) that is treated as a corporation for U.S. federal income tax purposes.
- 11) On Date 11, Sub 12 formed a new State A corporation (Sub 13).
- 12) On Date 13 and Date 14, respectively, FSub 4 formed FSub 16 and FSub 17, each a Country B entity that is treated as a corporation for U.S. federal income tax purposes.
- 13) On Date 15, FSub 4 formed a new Country B entity (FSub 18) that is treated as a corporation for U.S. federal income tax purposes.
- 14) Sub 12 will transfer cash to FSub 15 in exchange for additional stock therein.

- 15) FDE 1 will transfer its assets related to Business 1 to FSub 15 in exchange for the cash received by FSub 15 in Step 14 of the Country B Separation Transactions.
- 16) PS 4 will file a U.S. entity classification election to be treated as a corporation for U.S. federal income tax purposes. The value of PS 4's assets at the time of the election will be nominal.
- 17) In exchange for additional equity interests in PS 4, FSub 4 will transfer to PS 4 (i) its FSub 6 stock, and (ii) its stock of the Joint Ventures.
- 18) FSub 9 will enter into a demerger transaction under Country B law pursuant to which FSub 9 will transfer minimal assets to FSub 17.
- 19) In succession, (i) FSub 4 will transfer cash and/or a note receivable to FSub 17 in exchange for additional stock therein, (ii) FSub 9 will transfer its Retained Business Assets to FSub 17 in exchange for the cash and/or the note receivable transferred to FSub 17 by FSub 4, and (iii) FSub 9 will distribute the cash and/or the note receivable to FSub 4.
- 20) FSub 4 will transfer all of its stock in FSub 17 to PS 4 in exchange for additional equity interests therein (together with Steps 16 and 17 of the Country B Separation Transactions, the "PS 4 Contribution").
- 21) FSub 9 will enter into a demerger transaction under Country B law pursuant to which FSub 9 will transfer minimal assets to FSub 18.
- 22) In succession, (i) FSub 4 will transfer cash and/or a note receivable to FSub 18 in exchange for additional stock therein, (ii) FSub 9 will transfer its assets related to Business 1B and Business 1C to FSub 18 in exchange for the cash and/or the note receivable transferred to FSub 18 by FSub 4, and (iii) FSub 9 will distribute the cash and/or the note receivable to FSub 4.
- 23) FSub 6 will transfer the land used in Country B Business 1A to FSub 9 in exchange for cash.
- 24) Sub 12 will transfer a nominal amount of cash to FSub 16 in exchange for stock therein.
- 25) FSub 6 will transfer the employees in Country B Business 1 to FSub 16. In totality, the transactions between the PS 4 SAG and the FSub 4 SAG (each as defined below) in Steps 23 and 25 of the Country B Separation Transactions will be value-for-value exchanges; appropriate consideration will be paid in the

aggregate by each SAG, and appropriate adjustments will be made to reflect the consideration paid by each SAG member as necessary.

- 26) FSub 4 will distribute all of its PS 4 interests (representing 1% of the vote and value of all PS 4 interests) to Sub 12 (the “PS 4 Distribution” and, together with the PS 4 Contribution, the “PS 4 Separation”). The PS 4 Distribution may be undertaken as a pro rata distribution on the FSub 4 stock owned by Sub 12 or, alternatively, as a non-pro rata distribution in exchange for specifically identified shares of FSub 4 stock owned by Sub 12. In the case of a pro rata distribution, FSub 4 will distribute cash or additional shares of FSub 4 stock (each of which will have nominal value) to its minority shareholder, FSub 3.
- 27) In exchange for no additional consideration, Sub 12 will transfer all of its PS 4 interests to Sub 13 (the “Sub 13 Contribution”).
- 28) Sub 12 will distribute all of the stock of Sub 13 to Controlled LLC (the “Sub 13 Distribution” and, together with the Sub 13 Contribution, the “Sub 13 Separation”). The Sub 13 Distribution may be undertaken as a pro rata distribution on the Sub 12 stock owned by Controlled LLC or, alternatively, as a non-pro rata distribution in exchange for specifically identified shares of Sub 12 stock owned by Controlled LLC.
- 29) Controlled LLC will distribute all of the stock of Sub 13 to Distributing. This transaction will be disregarded for U.S. federal income tax purposes.
- 30) FSub 3 will sell its FSub 4 stock (which will have nominal value) to Controlled LLC in exchange for cash.

For purposes of the PS 4 Separation, FSub 4 will rely on Business 1A as conducted by FSub 9 (“FSub 9 Business 1A”) (FSub 9 will be a member of the FSub 4 SAG) to satisfy the active trade or business requirement of section 355(b), and PS 4 will rely on Business 2 as currently conducted by FSub 9 and as will be conducted by FSub 17 after the Country B Separation Transactions (“FSub 17 Business 2”) (FSub 17 will be a member of the PS 4 SAG). In addition, for purposes of the Sub 13 Separation, Sub 12 will rely on FSub 9 Business 1A (FSub 9 will be a member of the Sub 12 SAG, as defined below), and Sub 13 will rely on FSub 17 Business 2 (FSub 17 will be a member of the Sub 13 SAG, as defined below). Financial information has been submitted indicating that each of FSub 9 Business 1A and FSub 17 Business 2 has had gross receipts and operating expenses representing the active conduct of a trade or business for each of the past five years.

#### *Country G Separation Transactions*



The following is a description of the steps of the Country G Separation Transactions, which have been completed or will be completed in the order specified below. The Country G Separation Transactions will facilitate the Global Separation Transactions by separating Business 1 from the Retained Businesses.

- 1) On Date 9, Sub 10 formed a new State A corporation (Sub 14).
- 2) On Date 10, FSub 11 formed a new Country E entity (FSub 19) that is treated as a corporation for U.S. federal income tax purposes.
- 3) On Date 10, Sub 14 formed a new Country E entity (FDE 2) that is disregarded as an entity separate from Sub 14 for U.S. federal income tax purposes.
- 4) On Date 12, FSub 11 formed a new Country G entity (FSub 20) that is treated as a corporation for U.S. federal income tax purposes and transferred nominal assets thereto in exchange for all of its stock.
- 5) In transactions that will be disregarded for U.S. federal income tax purposes, (i) FSub 13 will distribute a portion of its stock to FSub 11, which will immediately transfer that stock back to FSub 13, and (ii) FSub 12 will distribute a portion of its stock to Sub 10, which will immediately transfer that stock back to FSub 12.
- 6) FSub 13 will transfer all of its assets associated with Business 1 to FSub 20 in exchange for (i) FSub 20's assumption of liabilities associated with Business 1 in Country G (the "FSub 20 Contribution"), and (ii) cancellation of a proportionate amount of FSub 11's common and preferred stock of FSub 13 (the "FSub 20 Distribution" and, together with the FSub 20 Contribution, the "FSub 20 Separation").
- 7) FSub 11 will transfer all of the stock of FSub 20 to FSub 19 in exchange for additional stock therein (the "FSub 19 Contribution").
- 8) FSub 11 will distribute all of the stock of FSub 19 to Sub 10 (the "FSub 19 Distribution" and, together with the FSub 19 Contribution, the "FSub 19 Separation"). The FSub 19 Distribution may be undertaken as a pro rata distribution on the FSub 11 stock owned by Sub 10 or, alternatively, as a non-pro rata distribution in exchange for specifically identified shares of FSub 11 stock owned by Sub 10.
- 9) Sub 10 will transfer (i) all of the stock of FSub 19 to Sub 14 in exchange for additional stock therein, and (ii) all of the stock of FSub 12 to FDE 2 in exchange for additional stock of Sub 14 (the "Sub 14 Contribution").

- 10) Sub 14 will transfer all of the stock of FSub 19 to FDE 2. This transaction will be disregarded for U.S. federal income tax purposes.
- 11) Sub 10 will distribute all of the stock of Sub 14 to Distributing (the “Sub 14 Distribution” and, together with the Sub 14 Contribution, the “Sub 14 Separation”). The Sub 14 Distribution may be undertaken as a pro rata distribution on the Sub 10 stock owned by Distributing or, alternatively, as a non-pro rata distribution in exchange for specifically identified shares of Sub 10 stock owned by Distributing.

For purposes of the FSub 20 Separation, FSub 13 will rely on its direct conduct of Business 2 (“FSub 13 Business 2”) to satisfy the active trade or business requirement of section 355(b), and FSub 20 will rely on Business 1A as currently conducted by FSub 13 and as will be conducted by FSub 20 after the Country G Separation Transactions (“FSub 20 Business 1A”). For purposes of the FSub 19 Separation, FSub 11 will rely on FSub 13 Business 2 (FSub 13 will be a member of the FSub 11 SAG, as defined below), and FSub 19 will rely on FSub 20 Business 1A (FSub 20 will be a member of the FSub 19 SAG, as defined below). For purposes of the Sub 14 Separation, Sub 10 will rely on FSub 13 Business 2 (FSub 13 will be a member of the Sub 10 SAG, as defined below), and Sub 14 will rely on FSub 20 Business 1A (FSub 20 will be a member of the Sub 14 SAG, as defined below). Financial information has been submitted indicating that each of FSub 13 Business 2 and FSub 20 Business 1A has had gross receipts and operating expenses representing the active conduct of a trade or business for each of the past five years.

#### *Country H Separation Transactions*

The following is a description of the steps of the Country H Separation Transactions, which have been completed or will be completed in the order specified below. The Country H Separation Transactions will facilitate the Global Separation Transactions by separating Business 1 from the Retained Businesses.

- 1) On Date 9, Sub 11 formed a new State A corporation (Sub 15).
- 2) On Date 10, Sub 11 formed a new Country E entity (FSub 21) that is treated as a corporation for U.S. federal income tax purposes and transferred nominal assets thereto in exchange for all of its stock.
- 3) On Date 10, FSub 21 formed a new Country E entity (FDE 3) that is disregarded as an entity separate from FSub 21 for U.S. federal income tax purposes.
- 4) On Date 12, FSub 21 formed a new Country H entity (FDE 4) that is disregarded as an entity separate from FSub 21 for U.S. federal income tax purposes.

- 5) Sub 11 will (i) resolve to increase share premium in FSub 21, as a result of which a payable will come into existence, and (ii) issue to FSub 21 two notes ("Sub 11 Note 1" and "Sub 11 Note 2"; collectively, the "Sub 11 Notes") in settlement of the payable (the "Sub 11 Notes Contribution").
- 6) FSub 21 will transfer Sub 11 Note 1 to FDE 4 in exchange for additional stock therein (the "Disregarded Sub 11 Note 1 Contribution"). This transaction will be disregarded for U.S. federal income tax purposes.
- 7) FSub 14 will transfer to FDE 4 all of its assets associated with Business 1 in exchange for Sub 11 Note 1 and the assumption by FDE 4 of liabilities associated with Business 1 in Country H (the "Country H Business 1 Transfer").
- 8) FSub 14 will transfer to FSub 21 an amount of cash equal to the amount of Sub 11 Note 2 in exchange for Sub 11 Note 2 (the "Country H Cash Transfer"). The Country H Business 1 Transfer and the Country H Cash Transfer are collectively referred to herein as the "FSub 21 Contribution."
- 9) FSub 21 will transfer a portion of the cash received in Step 8 of the Country H Separation Transactions to FDE 3. This transaction will be disregarded for U.S. federal income tax purposes.
- 10) FDE 3 will acquire (directly or indirectly) certain Business 1 assets owned, directly or through one or more disregarded entities, by PS 5 in exchange for cash.
- 11) FSub 14 will distribute the Sub 11 Notes to Sub 11 (the "FSub 21 Distribution"). The FSub 21 Distribution may be undertaken as a pro rata distribution on the FSub 14 stock owned by Sub 11 or, alternatively, as a non-pro rata distribution in exchange for specifically identified shares of FSub 14 stock owned by Sub 11. Pursuant to this step, the Sub 11 Notes will be cancelled. The Sub 11 Notes Contribution, the Disregarded Sub 11 Note 1 Contribution, the Country H Business 1 Transfer, the Country H Cash Transfer, and the FSub 21 Distribution are collectively referred to herein as the "FSub 21 Separation."
- 12) In exchange for no additional consideration, Sub 11 will transfer to Sub 15 (i) all of the stock of FSub 21, and (ii) Sub 11's interests in the Business 1 Entities (the "Sub 15 Contribution").
- 13) Sub 11 will distribute to Distributing securities issued by a wholly and indirectly owned foreign subsidiary of Sub 11 (the "FSub Securities"; the distribution of such securities, the "FSub Securities Distribution"). The FSub Securities Distribution will be undertaken as a pro rata distribution on the Sub 11 common stock owned by Distributing.

- 14) Sub 11 will distribute all of the stock of Sub 15 to Distributing (the “Sub 15 Distribution” and, together with the Sub 15 Contribution, the “Sub 15 Separation”). The Sub 15 Distribution will be undertaken as a pro rata distribution on the Sub 11 common stock owned by Distributing. The Sub 15 Contribution, together with the First Sub 8 Contribution, the Second Sub 8 Contribution, the PS 4 Contribution, the Sub 13 Contribution, the FSub 20 Contribution, the FSub 19 Contribution, the Sub 14 Contribution, the FSub 21 Contribution, and the Contribution (as defined below), are referred to herein as the “Contributions.” The Sub 15 Distribution, together with the First Sub 8 Distribution, the Second Sub 8 Distribution, the PS 4 Distribution, the Sub 13 Distribution, the FSub 20 Distribution, the FSub 19 Distribution, the Sub 14 Distribution, and the FSub 21 Distribution, are referred to herein as the “Internal Distributions.”

For purposes of the FSub 21 Separation, FSub 14 will rely on its direct conduct of Business 2 (“FSub 14 Business 2”) to satisfy the active trade or business requirement of section 355(b), and FSub 21 will rely on Business 1A as currently conducted by FSub 14 and as will be conducted by FSub 21 after the Country H Separation Transactions (“FSub 21 Business 1A”). For purposes of the Sub 15 Separation, Sub 11 will rely on FSub 14 Business 2 (FSub 14 will be a member of the Sub 11 SAG, as defined below), and Sub 15 will rely on FSub 21 Business 1A (FSub 21 will be a member of the Sub 15 SAG, as defined below). Financial information has been submitted indicating that each of FSub 14 Business 2 and FSub 21 Business 1A has had gross receipts and operating expenses representing the active conduct of a trade or business for each of the past five years.

### *Global Separation Transactions*

The following is a description of the steps of the Global Separation Transactions, which will be completed in the order specified below pursuant to an overall plan of reorganization. Prior to the Global Separation Transactions (and in addition to the Country B, Country G, and Country H Separation Transactions described above), the Distributing Worldwide Group will engage in a series of transactions in other jurisdictions that will facilitate the Global Separation Transactions by separating Business 1 from the Retained Businesses.

- 1) Distributing will transfer all or a portion of its Business 1 assets to one or more State A limited liability companies (the “Business 1 LLCs”), each of which will be disregarded as an entity separate from Distributing for U.S. federal income tax purposes. This transaction will be disregarded for U.S. federal income tax purposes.

- 2) Prior to the Distributing Debt Acquisition (defined below), and to ensure that the Proposed Transaction can be completed in the unlikely event of market disruption, Distributing and one or more financial institutions (the "Investment Banks") may enter into a committed exchange agreement (the "Committed Exchange Agreement"). Pursuant to the Committed Exchange Agreement, the Investment Banks would exchange Distributing Date 1 Debt for certain Controlled loans issued to Distributing (the "Controlled Loans," and such exchange, the "Committed Exchange") in certain circumstances and subject to certain conditions. The Committed Exchange would occur in lieu of an exchange of Distributing Date 1 Debt for Controlled Securities (defined below) (the "Debt-for-Debt Exchange"), and only if (i) the Controlled Securities cannot be marketed at all or can be marketed only at a price where the yield to maturity is above a predetermined cap (the "Cap"), and (ii) Distributing effects the External Distribution. The Controlled Loans will bear interest at a rate equal to the Cap and otherwise will have terms similar to those of the Controlled Securities. Any exchange of Distributing Date 1 Debt for Controlled Loans pursuant to the Committed Exchange Agreement will comply with the following timing limitations: (i) the Investment Banks will hold the Distributing Date 1 Debt for a period of at least 5 days prior to the date on which Distributing's Board of Directors either declares a dividend effecting the External Distribution or offers to its shareholders the right to exchange their stock pursuant to the Initial Exchange Offer (as defined below); and (ii) the Investment Banks, acting as principals for their own account, will hold the Distributing Date 1 Debt for at least 14 days before the Committed Exchange.
- 3) Distributing will transfer all of the assets associated with Business 1 (including, but not limited to, all of the stock of Sub 1, Sub 2, Sub 14, and Sub 15; its b% interest in PS 1; the Business 1 LLCs; its stock in FSub 5, FSub 6, and FSub 9; its stock in the Additional Business 1 Entities; and its note receivable due from Sub 3) (the "Business 1 Assets") to Controlled LLC in exchange for (i) additional membership interests in Controlled LLC, (ii) the assumption of certain fixed liabilities of Distributing associated with Business 1 (the "Assumed Fixed Liabilities"), and (iii) the assumption of certain contingent liabilities of Distributing associated with Business 1 (the "Assumed Contingent Liabilities"). This transaction will be disregarded for U.S. federal income tax purposes.
- 4) If Distributing proceeds with either the Debt-for-Debt Exchange or the Committed Exchange, then the Investment Banks will purchase an amount of Distributing Date 1 Debt in the secondary market (the "Distributing Debt Acquisition") in their capacity as principals acting for their own account.
- 5) Sub 14, together with one or more of the Business 1 Entities and Additional Business 1 Entities, will merge with and into Sub 15 (the "Mergers").

- 6) If Distributing proceeds with the Debt-for-Debt Exchange, then no less than 5 days after the Distributing Debt Acquisition, Distributing will enter into an exchange agreement (the “Debt-for-Debt Exchange Agreement”) with the Investment Banks pursuant to which Distributing will retire some or all of the Distributing Date 1 Debt in exchange for long-term debt securities to be issued by Controlled (the “Controlled Securities”). The Debt-for-Debt Exchange Agreement will provide that the exchange will occur at least 14 days after the Distributing Debt Acquisition.
- 7) Controlled LLC will convert under State A law into a corporation (“Controlled”) (the “Controlled Conversion”). (The deemed contribution of the Business 1 Assets by Distributing to Controlled in exchange for (i) Controlled’s deemed issuance of stock, (ii) Controlled’s deemed assumption of the Assumed Fixed Liabilities and the Assumed Contingent Liabilities, (iii) the Controlled Securities or the Controlled Loans (as described in Step 8 of the Global Separation Transactions), and (iv) the Controlled Cash (as defined in Step 11 of the Global Separation Transactions) is referred to herein as the “Contribution.”) Most or all of the Assumed Contingent Liabilities will be deductible by Controlled (or capitalized into the basis of an asset of Controlled) under Controlled’s normal method of accounting following the Separation, as defined below (the “Global Assumed Deductible Liabilities”). Following the Contribution, one or more of the Business 1 LLCs may make a U.S. entity classification election to be treated as a corporation for U.S. federal income tax purposes.
- 8) If Distributing proceeds with the Debt-for-Debt Exchange or the Committed Exchange, Controlled will issue the Controlled Securities or the Controlled Loans, respectively, to Distributing as partial consideration for Distributing’s deemed contribution of the Business 1 Assets in Step 7 of the Global Separation Transactions.
- 9) Controlled will borrow cash from third-party lenders (the “Controlled Borrowing”).
- 10) If Distributing proceeds with the Debt-for-Debt Exchange or the Committed Exchange, respectively, then no less than 14 days after the Distributing Debt Acquisition, Distributing will transfer (i) the Controlled Securities to the Investment Banks in repayment of all or a part of the Distributing Date 1 Debt (the Debt-for-Debt Exchange), or (ii) the Controlled Loans to the Investment Banks in repayment of all or a part of the Distributing Date 1 Debt (the Committed Exchange).
- 11) Controlled will distribute all or a portion of the cash from the Controlled Borrowing (the “Controlled Cash”) to Distributing as partial consideration for the Business 1 Assets deemed contributed in Step 7 of the Global Separation Transactions (the “Controlled Cash Transfer”). Distributing will use the Controlled Cash to repay its

existing debt (including interest or fees thereon, as well as borrowings under a revolving credit facility or other short-term debt facility that may be incurred prior to the Distribution, commercial paper, and ordinary course liabilities); to pay dividends (including regular quarterly dividends) to its shareholders; and/or to repurchase shares of Distributing stock, in all cases within 9 months following the Controlled Cash Transfer. Distributing will not maintain the Controlled Cash in a separate account; thus, references to “Controlled Cash” in the preceding sentence and in the Representations below are to an equivalent amount of cash.

- 12) Immediately prior to the External Distribution, in a transaction that qualifies as a reorganization within the meaning of section 368(a)(1)(E), Controlled will recapitalize its capital structure into the number of shares of common stock needed to accommodate the required number of shares for distribution in the External Distribution.
- 13) Distributing will either (a) distribute, on a pro rata basis with respect to its common stock, all of the stock of Controlled to Distributing’s shareholders on a single date (the “One-Step Distribution”) or (b) offer to Distributing’s shareholders, on one or more occasions, the right to exchange shares of Distributing common stock for shares of Controlled stock (the first such exchange, the “Initial Exchange Offer”; all such exchanges, collectively, the “Exchange Offers”). If the transaction is effected as one or more Exchange Offers, and if Distributing’s shareholders subscribe for less than all of Controlled’s stock in the Exchange Offers, then Distributing will distribute any unsubscribed Controlled stock to Distributing’s shareholders on a pro rata basis within 9 months of the date of the Controlled Conversion (the “Clean-Up Distribution”). The term “External Distribution” herein refers to either the One-Step Distribution or the Exchange Offers (together with the Clean-Up Distribution). In turn, the Contribution and the External Distribution together are referred to herein as the “Separation.” Fractional shares of Controlled stock will not be distributed, but instead will be aggregated by a distribution agent and sold on the market, with the applicable Distributing shareholders receiving their respective share of the proceeds.

For purposes of the Separation, Distributing will rely on Business 2 as conducted by the Distributing SAG (as defined below) to satisfy the active trade or business requirement of section 355(b), and Controlled will rely on Business 1A, as currently conducted by the Distributing SAG and as will be conducted by the Controlled SAG (as defined below) following the Global Separation Transactions. Financial information has been submitted indicating that each of Business 2 and Business 1A has had gross receipts and operating expenses representing the active conduct of a trade or business for each of the past five years.

*Additional Information Regarding the Proposed Transaction*

Immediately following the External Distribution, a majority of directors on the board of Controlled will be persons that are not directors, officers, employees, or principal shareholders of Distributing, and vice-versa. It is expected that no officer of a Distributing subsidiary will be an officer of a Controlled subsidiary if such officer is responsible for strategic planning or direction of the business of either subsidiary.

In connection with the Proposed Transaction, Distributing and Controlled expect to enter into certain agreements and arrangements concerning the relationship between Distributing (and its subsidiaries) and Controlled (and its subsidiaries) after the Proposed Transaction (collectively, the “Continuing Arrangements”). The Continuing Arrangements are expected to include the following:

- i) A “Separation and Distribution Agreement” that governs the terms of the separation of Business 1 from the Retained Businesses and certain post-distribution matters. The Separation and Distribution Agreement also provides for a post-closing adjustment to the amount of cash deemed contributed by Distributing to Controlled in the Contribution once a final determination of the amount of cash and cash equivalents on hand in Controlled (and its subsidiaries) has been made. To the extent the amount of cash and cash equivalents either exceeds or is less than the targeted amount specified in the Separation and Distribution Agreement, Controlled will return such excess to Distributing or Distributing will make an additional contribution to Controlled, as applicable. Distributing expects to enter into a global Separation and Distribution Agreement with Controlled, but Distributing also may need to enter into local-country Separation and Distribution Agreements for non-U.S. tax reasons.
- ii) A “Tax Matters Agreement” that governs the parties’ respective rights and obligations with respect to taxes. Distributing expects to enter into a global Tax Matters Agreement with Controlled, but Distributing also may need to enter into local-country Tax Matters Agreements for non-U.S. tax reasons.
- iii) An “Employee Matters Agreement” that governs compensation and employee benefit obligations with respect to current and former employees of Business 1. Distributing expects to enter into a global Employee Matters Agreement with Controlled, but Distributing also may need to enter into local-country Employee Matters Agreements for non-U.S. tax reasons.
- iv) Agreements pursuant to which Distributing or its subsidiaries will provide certain non-core services (e.g., human resources, information technology support services, etc.) to Controlled or its subsidiaries (or vice-versa) on a transitional basis (the “Transition Service Agreements”). Each of the Transition Service Agreements will provide for the provision of services for a period of no more than 9 months after completion of the Proposed Transaction, and such services will be



provided on a cost or cost-plus basis. In the event such services are provided beyond the transitional period, they will continue to be provided only if the parties, bargaining at arm's length, mutually agree at the end of the transitional period and only if such services are provided at fair market value.

- v) Agreements that will govern the use of office, warehouse, or plant space at a limited number of sites that will be shared by Distributing (or its subsidiaries) and Controlled (or its subsidiaries) after the External Distribution (the "Shared Site Agreements"). The Shared Site Agreements generally will be priced on a basis intended to effect a bona fide sharing of costs.
- vi) "Intellectual Property Agreements" that will provide for licenses of shared or overlapping intellectual property whereby Controlled (or its subsidiaries) will have a royalty-free license to use certain Distributing intellectual property (and vice-versa) after the Proposed Transaction in specified fields of use. The amount of such shared or overlapping intellectual property comprises a small portion of the intellectual property portfolio to be retained by Distributing or transferred to Controlled in the Proposed Transaction. Distributing expects to enter into one or more global Intellectual Property Agreements with Controlled, but Distributing also may need to enter into local-country Intellectual Property Agreements for non-U.S. tax reasons.
- vii) Agreements that will govern commercial relationships between Distributing (and its subsidiaries) and Controlled (and its subsidiaries) after the Proposed Transaction. These may include agreements relating to the manufacture, supply, and distribution of select products in certain markets. Payments made under any such agreements will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length. Transactions conducted under such agreements will account, over time, for a relatively small percentage of Distributing's and Controlled's overall commercial activity.
- viii) The continued guarantee by Distributing of certain PS 1 leases until the leases terminate or the third-party lessors permit Controlled to replace Distributing as the guarantor at a reasonable cost, whichever happens sooner. Distributing expects that it will be obligated to guarantee approximately \$2 of PS 1's lease obligations with terms of up to 5 years. Controlled will indemnify Distributing against liabilities under these continuing guarantees.

Distributing also expects that, for those employees who will be employed by Controlled after the Proposed Transaction, outstanding stock-based compensation of Distributing will be converted into stock-based compensation of Controlled.

Finally, Distributing expects that Controlled will establish a new global holding company structure after completion of the Proposed Transaction. More specifically, Distributing

expects that Controlled will own a domestic holding company, which will own a foreign holding company that will be treated as a corporation for U.S. federal income tax purposes ("Foreign Holdco"). Distributing expects that Foreign Holdco will own, directly or indirectly, the majority of Controlled's foreign operating companies, and that some of those operating companies will be treated (or will elect to be treated) as entities disregarded as separate from Foreign Holdco for U.S. federal income tax purposes.

## Representations

### *Sub 6 Conversion*

The following representations are made with respect to the Sub 6 Conversion:

- (1a) Sub 3 and Sub 6 will adopt a plan of liquidation by conversion of Sub 6 into a limited liability company under State B law (the "Sub 6 Plan of Liquidation"), and the Sub 6 Conversion will occur pursuant to such plan.
- (1b) Sub 3, on the date of adoption of the Sub 6 Plan of Liquidation, and at all times until the effective date of the Sub 6 Conversion, will be the owner of at least 80 percent of the total combined voting power of all classes of Sub 6 stock entitled to vote and at least 80 percent of the total value of all classes of Sub 6 stock (excluding nonvoting stock, if any, that is limited and preferred as to dividends and otherwise meets the requirements of section 1504(a)(4)).
- (1c) No shares of Sub 6 stock will have been redeemed during the three years preceding the date of adoption of the Sub 6 Plan of Liquidation.
- (1d) The distribution by Sub 6 to Sub 3 that will be deemed to occur pursuant to the Sub 6 Plan of Liquidation will take place on the effective date of the Sub 6 Conversion and will be with respect to Sub 3's ownership of Sub 6's stock.
- (1e) As of the effective date of the Sub 6 Conversion, Sub 6 will cease to be an entity that is treated as separate from Sub 3 for U.S. federal income tax purposes.
- (1f) Sub 6 will not have acquired assets in any nontaxable transaction at any time, except for acquisitions made pursuant to the PS 2 Distribution and acquisitions occurring more than three years prior to the date of adoption of the Sub 6 Plan of Liquidation.
- (1g) Except with respect to dispositions made pursuant to the First Sub 8 Contribution (as described in the Domestic Separation Transactions), no assets of Sub 6 have been, or will be, disposed of by either Sub 6 or Sub 3, except for dispositions occurring in the ordinary course of business and

- dispositions occurring more than three years prior to the date of adoption of the Sub 6 Plan of Liquidation.
- (1h) Except with respect to the transfer to Sub 8 of the  $\frac{1}{f}$ % partnership interest in PS 3 and the note receivable due to Distributing pursuant to the First Sub 8 Contribution (as described in the Domestic Separation Transactions) and the transfer of Sub 1 to Controlled pursuant to the Contribution (as described in the Global Separation Transactions), the Sub 6 Conversion will not be preceded or followed by the reincorporation in, or transfer or sale to, a recipient corporation ("Recipient") of any of the businesses or assets of Sub 6, if persons holding, directly or indirectly, more than 20 percent in value of the Sub 6 stock also hold, directly or indirectly, more than 20 percent in value of the stock in Recipient. For purposes of this representation, ownership will be determined by application of the constructive ownership rules of section 318(a) as modified by section 304(c)(3).
  - (1i) Prior to adoption of the Sub 6 Plan of Liquidation, no assets of Sub 6 will have been distributed in kind, transferred, or sold to Sub 3, except for (i) transactions occurring in the ordinary course of business and (ii) transactions occurring more than three years prior to the date of adoption of the Sub 6 Plan of Liquidation.
  - (1j) Sub 6 will report all earned income represented by assets that will be deemed distributed to Sub 3, such as receivables being reported on a cash basis, unfinished construction contracts, commissions due, etc.
  - (1k) The fair market value of the assets of Sub 6 will exceed its liabilities both at the date of adoption of the Sub 6 Plan of Liquidation and immediately before the Sub 6 Conversion occurs.
  - (1l) There is no intercorporate debt existing between Sub 3 and Sub 6, and none has been cancelled, forgiven, or discounted, except for transactions that occurred more than three years prior to the date of adoption of the Sub 6 Plan of Liquidation.
  - (1m) Sub 3 is not an organization that is exempt from U.S. federal income tax under section 501 or any other provision of the Code.
  - (1n) All other transactions undertaken contemporaneously with, in anticipation of, in conjunction with, or in any way related to, the Sub 6 Conversion have been fully disclosed.

*First Sub 8 Separation*

The following representations are made with respect to the First Sub 8 Separation:

- (2a) Sub 3 will treat all members of its separate affiliated group (within the meaning of section 355(b)(3)(B)) (the "Sub 3 SAG") as one corporation in determining whether it satisfies the requirements of section 355(b)(2)(A) regarding the active conduct of a trade or business.
- (2b) Sub 8 will treat all members of its separate affiliated group (within the meaning of section 355(b)(3)(B)) (the "Sub 8 SAG") as one corporation in determining whether it satisfies the requirements of section 355(b)(2)(A) regarding the active conduct of a trade or business.
- (2c) Any indebtedness owed by Sub 8 (or any member of the Sub 8 SAG) to Sub 3 (or any member of the Sub 3 SAG) after the First Sub 8 Separation will not constitute stock or securities.
- (2d) If the First Sub 8 Distribution is effected as an exchange for specifically identified shares of Sub 3 stock owned by Sub 1, the fair market value of the Sub 8 stock to be received by Sub 1 will be approximately equal to the fair market value of the Sub 3 stock surrendered by Sub 1 in the First Sub 8 Distribution.
- (2e) No part of the consideration to be distributed by Sub 3 in the First Sub 8 Distribution will be received by Sub 1 as a creditor or an employee, or in any capacity other than that of a shareholder of Sub 3.
- (2f) The 5 years of financial information submitted with respect to Sub 3 Business 1 is representative of the present operation of Sub 3 Business 1, and with regard to such business, there have been no substantial operational changes since the date of the last financial statements submitted.
- (2g) The 5 years of financial information submitted with respect to Sub 9 Business 3 is representative of the present operation of Sub 9 Business 3, and with regard to such business, there have been no substantial operational changes since the date of the last financial statements submitted.
- (2h) Neither Sub 3 Business 1 nor control of an entity conducting Sub 3 Business 1 will have been acquired during the five-year period ending on the date of the First Sub 8 Distribution in a transaction in which gain or loss was recognized (or treated as recognized for U.S. federal income tax purposes) in whole or in part, except for acquisitions that constitute expansions or that did not result in a change to the existing business of such a character as to constitute the acquisition of a new or different business (as contemplated by § 1.355-3(b)(3)(ii)) and acquisitions by one member of an affiliated group from

- another member of the affiliated group (as contemplated by § 1.355-3(b)(4)(iii)).
- (2i) Neither Sub 9 Business 3 nor control of an entity conducting Sub 9 Business 3 will have been acquired during the five-year period ending on the date of the First Sub 8 Distribution in a transaction in which gain or loss was recognized (or treated as recognized for U.S. federal income tax purposes) in whole or in part, except for acquisitions that constitute expansions or that did not result in a change to the existing business of such a character as to constitute the acquisition of a new or different business (as contemplated by § 1.355-3(b)(3)(ii)) and acquisitions by one member of an affiliated group from another member of the affiliated group (as contemplated by § 1.355-3(b)(4)(iii)).
- (2j) Following the First Sub 8 Separation, the Sub 3 SAG will continue the active conduct of Sub 3 Business 1 and the Sub 8 SAG will continue the active conduct of Sub 9 Business 3, independently and with their separate employees, except as provided pursuant to the Continuing Arrangements.
- (2k) The First Sub 8 Separation will be carried out for the corporate business purpose of facilitating the Separation. The First Sub 8 Separation is motivated, in whole or substantial part, by this corporate business purpose.
- (2l) The First Sub 8 Separation is not being used principally as a device for the distribution of the earnings and profits of Sub 3 or Sub 8 or both.
- (2m) The distribution of Sub 8 stock to Sub 1 in the First Sub 8 Distribution is with respect to Sub 1's ownership of Sub 3 stock. Any money, property, or stock transferred by Sub 3 to Sub 8 in the First Sub 8 Contribution will be exchanged (or deemed exchanged) solely for stock of Sub 8.
- (2n) The total fair market value of the assets that will be transferred by Sub 3 to Sub 8 in the First Sub 8 Contribution will exceed the sum of: (i) the total liabilities (if any) that will be assumed (within the meaning of section 357(d)) by Sub 8 in connection with the First Sub 8 Separation; (ii) the amount of liabilities (if any) owed to Sub 8 by Sub 3 that will be discharged or extinguished in connection with the First Sub 8 Separation; and (iii) the amount of cash and the fair market value of the property (if any) (other than stock and securities permitted to be received under section 361(a) without the recognition of gain) that will be received by Sub 3 from Sub 8 in connection with the First Sub 8 Separation. The fair market value of the assets of Sub 8 will exceed the amount of its liabilities immediately after the First Sub 8 Contribution.

- (2o) The total adjusted basis of the assets that will be transferred by Sub 3 to Sub 8 in the First Sub 8 Contribution will equal or exceed the sum of (i) any liabilities that will be assumed (within the meaning of section 357(d)) by Sub 8 (other than liabilities to which section 357(c)(3) applies) in connection with the First Sub 8 Separation, and (ii) the total amount of any money and the fair market value of any other property (within the meaning of section 361(b)) that will be received by Sub 3 from Sub 8 and transferred to Sub 3's creditors and shareholders in connection with the reorganization.
- (2p) The liabilities, if any, that will be assumed (within the meaning of section 357(d)) by Sub 8 in connection with the First Sub 8 Separation will have been incurred in the ordinary course of business and will be associated with the assets to be transferred.
- (2q) Except pursuant to the elimination or reduction of intercompany balances in connection with the First Sub 8 Separation, Sub 3 will have neither accumulated its receivables nor made extraordinary payment of its payables in anticipation of the First Sub 8 Separation.
- (2r) No intercorporate debt will exist between Sub 3 (or any member of the Sub 3 SAG) and Sub 8 (or any member of the Sub 8 SAG) at the time of, or subsequent to, the First Sub 8 Separation, other than any debt that arises in the ordinary course of business or under the Continuing Arrangements.
- (2s) Immediately before the First Sub 8 Distribution, items of income, gain, loss, deduction, and credit will be taken into account as required by the applicable intercompany transaction regulations (see §§ 1.1502-13 and 1.1502-14 as in effect before the publication of T.D. 8597, 1995-2 C.B. 147, and as currently in effect; § 1.1502-13 as published by T.D. 8597). At the time of the First Sub 8 Distribution, there will not be an excess loss account in the stock of Sub 8.
- (2t) Except with respect to certain payments made pursuant to the Continuing Arrangements, payments made in connection with all continuing transactions between Sub 3 (or any member of the Sub 3 SAG) and Sub 8 (or any member of the Sub 8 SAG) following the First Sub 8 Separation will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length.
- (2u) No two parties to the transaction are investment companies as defined in section 368(a)(2)(F)(iii) and (iv).
- (2v) Sub 3, Sub 8, and Sub 1 each will pay its own expenses, if any, incurred in connection with the First Sub 8 Separation.

- (2w) No party to the First Sub 8 Separation is under the jurisdiction of a court in a Title 11 or similar case within the meaning of section 368(a)(3)(A).
- (2x) For purposes of section 355(d), immediately after the First Sub 8 Distribution, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Sub 3 stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Sub 3 stock, that was acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the First Sub 8 Distribution.
- (2y) For purposes of section 355(d), immediately after the First Sub 8 Distribution, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Sub 8 stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Sub 8 stock, that was either (i) acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the First Sub 8 Distribution, or (ii) attributable to distributions on Sub 3 stock or securities that were acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the First Sub 8 Distribution.
- (2z) The First Sub 8 Separation is not part of a plan or series of related transactions (within the meaning of § 1.355-7) pursuant to which one or more persons will acquire, directly or indirectly, stock representing a 50-percent or greater interest (within the meaning of section 355(d)(4)) in Sub 3 or Sub 8 (including any predecessor of or successor to any such corporation).
- (2aa) Immediately after the transaction (as defined in section 355(g)(4)), (i) no person will hold a 50-percent or greater interest (within the meaning of section 355(g)(3)) in Sub 3 or Sub 8, (ii) if any person holds a 50-percent or greater interest (within the meaning of section 355(g)(3)) in any disqualified investment corporation (within the meaning of section 355(g)(2)), such person will have held such interest in such corporation immediately before the transaction, or (iii) neither Sub 3 nor Sub 8 will be a disqualified investment corporation (within the meaning of section 355(g)(2)).

### *Second Sub 8 Separation*

The following representations are made with respect to the Second Sub 8 Separation:

- (3a) Sub 1 will treat all members of its separate affiliated group (within the meaning of section 355(b)(3)(B)) (the “Sub 1 SAG”) as one corporation in determining whether it satisfies the requirements of section 355(b)(2)(A) regarding the active conduct of a trade or business.
- (3b) Sub 8 will treat all members of the Sub 8 SAG as one corporation in determining whether it satisfies the requirements of section 355(b)(2)(A) regarding the active conduct of a trade or business.
- (3c) Any indebtedness owed by Sub 8 (or any member of the Sub 8 SAG) to Sub 1 (or any member of the Sub 1 SAG) after the Second Sub 8 Separation will not constitute stock or securities.
- (3d) If the Second Sub 8 Distribution is effected as an exchange for specifically identified shares of Sub 1 stock owned by Distributing, the fair market value of the Sub 8 stock to be received by Distributing will be approximately equal to the fair market value of the Sub 1 stock surrendered by Distributing in the Second Sub 8 Distribution.
- (3e) No part of the consideration to be distributed by Sub 1 in the Second Sub 8 Distribution will be received by Distributing as a creditor or an employee, or in any capacity other than that of a shareholder of Sub 1.
- (3f) The 5 years of financial information submitted with respect to Sub 3 Business 1 is representative of the present operation of Sub 3 Business 1, and with regard to such business, there have been no substantial operational changes since the date of the last financial statements submitted.
- (3g) The 5 years of financial information submitted with respect to Sub 9 Business 3 is representative of the present operation of Sub 9 Business 3, and with regard to such business, there have been no substantial operational changes since the date of the last financial statements submitted.
- (3h) Neither Sub 3 Business 1 nor control of an entity conducting Sub 3 Business 1 will have been acquired during the five-year period ending on the date of the Second Sub 8 Distribution in a transaction in which gain or loss was recognized (or treated as recognized for U.S. federal income tax purposes) in whole or in part, except for acquisitions that constitute expansions or that did not result in a change to the existing business of such a character as to constitute the acquisition of a new or different business (as contemplated by § 1.355-3(b)(3)(ii)) and acquisitions by one member of an affiliated group from another member of the affiliated group (as contemplated by § 1.355-3(b)(4)(iii)).



- (3i) Neither Sub 9 Business 3 nor control of an entity conducting Sub 9 Business 3 will have been acquired during the five-year period ending on the date of the Second Sub 8 Distribution in a transaction in which gain or loss was recognized (or treated as recognized for U.S. federal income tax purposes) in whole or in part, except for acquisitions that constitute expansions or that did not result in a change to the existing business of such a character as to constitute the acquisition of a new or different business (as contemplated by § 1.355-3(b)(3)(ii)) and acquisitions by one member of an affiliated group from another member of the affiliated group (as contemplated by § 1.355-3(b)(4)(iii)).
- (3j) Following the Second Sub 8 Separation, the Sub 1 SAG will continue the active conduct of Sub 3 Business 1 and the Sub 8 SAG will continue the active conduct of Sub 9 Business 3, independently and with their separate employees, except as provided pursuant to the Continuing Arrangements.
- (3k) The Second Sub 8 Separation will be carried out for the corporate business purpose of facilitating the Separation. The Second Sub 8 Separation is motivated, in whole or substantial part, by this corporate business purpose.
- (3l) The Second Sub 8 Separation is not being used principally as a device for the distribution of the earnings and profits of Sub 1 or Sub 8 or both.
- (3m) The distribution of Sub 8 stock to Distributing in the Second Sub 8 Distribution is with respect to Distributing's ownership of Sub 1 stock. Any money, property, or stock transferred by Sub 1 to Sub 8 in the Second Sub 8 Contribution will be exchanged (or deemed exchanged) solely for stock of Sub 8 and the assumption of liabilities by Sub 8.
- (3n) The total fair market value of the assets that will be transferred by Sub 1 to Sub 8 in the Second Sub 8 Contribution will exceed the sum of: (i) the total liabilities (if any) that will be assumed (within the meaning of section 357(d)) by Sub 8 in connection with the Second Sub 8 Separation; (ii) the amount of liabilities (if any) owed to Sub 8 by Sub 1 that will be discharged or extinguished in connection with the Second Sub 8 Separation; and (iii) the amount of cash and the fair market value of the property (if any) (other than stock and securities permitted to be received under section 361(a) without the recognition of gain) that will be received by Sub 1 from Sub 8 in connection with the Second Sub 8 Separation. The fair market value of the assets of Sub 8 will exceed the amount of its liabilities immediately after the Second Sub 8 Contribution.
- (3o) The total adjusted basis of the assets that will be transferred by Sub 1 to Sub 8 in the Second Sub 8 Contribution will equal or exceed the sum of (i) any

- liabilities that will be assumed (within the meaning of section 357(d)) by Sub 8 (other than liabilities to which section 357(c)(3) applies) in connection with the Second Sub 8 Separation, and (ii) the total amount of any money and the fair market value of any other property (within the meaning of section 361(b)) that will be received by Sub 1 from Sub 8 and transferred to Sub 1's creditors and shareholders in connection with the reorganization.
- (3p) The liabilities, if any, that will be assumed (within the meaning of section 357(d)) by Sub 8 in connection with the Second Sub 8 Separation will have been incurred in the ordinary course of business and will be associated with the assets to be transferred.
- (3q) Except pursuant to the elimination or reduction of intercompany balances in connection with the Second Sub 8 Separation, Sub 1 will have neither accumulated its receivables nor made extraordinary payment of its payables in anticipation of the Second Sub 8 Separation.
- (3r) No intercorporate debt will exist between Sub 1 (or any member of the Sub 1 SAG) and Sub 8 (or any member of the Sub 8 SAG) at the time of, or subsequent to, the Second Sub 8 Separation, other than any debt that arises in the ordinary course of business or under the Continuing Arrangements.
- (3s) Immediately before the Second Sub 8 Distribution, items of income, gain, loss, deduction, and credit will be taken into account as required by the applicable intercompany transaction regulations (see §§ 1.1502-13 and 1.1502-14 as in effect before the publication of T.D. 8597, 1995-2 C.B. 147, and as currently in effect; § 1.1502-13 as published by T.D. 8597). At the time of the Second Sub 8 Distribution, there will not be an excess loss account in the stock of Sub 8.
- (3t) Except with respect to certain payments made pursuant to the Continuing Arrangements, payments made in connection with all continuing transactions between Sub 1 (or any member of the Sub 1 SAG) and Sub 8 (or any member of the Sub 8 SAG) following the Second Sub 8 Separation will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length.
- (3u) No two parties to the transaction are investment companies as defined in section 368(a)(2)(F)(iii) and (iv).
- (3v) Sub 1, Sub 8, and Distributing each will pay its own expenses, if any, incurred in connection with the Second Sub 8 Separation.

- (3w) No party to the Second Sub 8 Separation is under the jurisdiction of a court in a Title 11 or similar case within the meaning of section 368(a)(3)(A).
- (3x) For purposes of section 355(d), immediately after the Second Sub 8 Distribution, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Sub 1 stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Sub 1 stock, that was acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the Second Sub 8 Distribution.
- (3y) For purposes of section 355(d), immediately after the Second Sub 8 Distribution, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Sub 8 stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Sub 8 stock, that was either (i) acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the Second Sub 8 Distribution, or (ii) attributable to distributions on Sub 1 stock or securities that were acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the Second Sub 8 Distribution.
- (3z) The Second Sub 8 Separation is not part of a plan or series of related transactions (within the meaning of § 1.355-7) pursuant to which one or more persons will acquire, directly or indirectly, stock representing a 50-percent or greater interest (within the meaning of section 355(d)(4)) in Sub 1 or Sub 8 (including any predecessor of or successor to any such corporation).
- (3aa) Immediately after the transaction (as defined in section 355(g)(4)), (i) no person will hold a 50-percent or greater interest (within the meaning of section 355(g)(3)) in Sub 1 or Sub 8, (ii) if any person holds a 50-percent or greater interest (within the meaning of section 355(g)(3)) in any disqualified investment corporation (within the meaning of section 355(g)(2)), such person will have held such interest in such corporation immediately before the transaction, or (iii) neither Sub 1 nor Sub 8 will be a disqualified investment corporation (within the meaning of section 355(g)(2)).

#### *PS 4 Separation*

The following representations are made with respect to the PS 4 Separation:

- (4a) FSub 4 will treat all members of its separate affiliated group (within the meaning of section 355(b)(3)(B)) (the “FSub 4 SAG”) as one corporation in determining whether it satisfies the requirements of section 355(b)(2)(A) regarding the active conduct of a trade or business.
- (4b) PS 4 will treat all members of its separate affiliated group (within the meaning of section 355(b)(3)(B)) (the “PS 4 SAG”) as one corporation in determining whether it satisfies the requirements of section 355(b)(2)(A) regarding the active conduct of a trade or business.
- (4c) Any indebtedness owed by PS 4 (or any member of the PS 4 SAG) to FSub 4 (or any member of the FSub 4 SAG) after the PS 4 Separation will not constitute stock or securities.
- (4d) If the PS 4 Distribution is effected as an exchange for specifically identified shares of FSub 4 stock owned by Sub 12, the fair market value of the PS 4 stock to be received by Sub 12 will be approximately equal to the fair market value of the FSub 4 stock surrendered by Sub 12 in the PS 4 Distribution.
- (4e) No part of the consideration to be distributed by FSub 4 in the PS 4 Distribution will be received by Sub 12 as a creditor or an employee, or in any capacity other than that of a shareholder of FSub 4.
- (4f) The 5 years of financial information submitted with respect to FSub 9 Business 1A is representative of the present operation of FSub 9 Business 1A, and with regard to such business, there have been no substantial operational changes since the date of the last financial statements submitted.
- (4g) The 5 years of financial information submitted with respect to FSub 17 Business 2 is representative of the present operation of FSub 17 Business 2, and with regard to such business, there have been no substantial operational changes since the date of the last financial statements submitted.
- (4h) Neither FSub 9 Business 1A nor control of an entity conducting FSub 9 Business 1A will have been acquired during the five-year period ending on the date of the PS 4 Distribution in a transaction in which gain or loss was recognized (or treated as recognized for U.S. federal income tax purposes) in whole or in part, except for acquisitions that constitute expansions or that did not result in a change to the existing business of such a character as to constitute the acquisition of a new or different business (as contemplated by § 1.355-3(b)(3)(ii)) and acquisitions by one member of an affiliated group from another member of the affiliated group (as contemplated by § 1.355-3(b)(4)(iii)).

- (4i) Neither FSub 17 Business 2 nor control of an entity conducting FSub 17 Business 2 will have been acquired during the five-year period ending on the date of the PS 4 Distribution in a transaction in which gain or loss was recognized (or treated as recognized for U.S. federal income tax purposes) in whole or in part, except for acquisitions that constitute expansions or that did not result in a change to the existing business of such a character as to constitute the acquisition of a new or different business (as contemplated by § 1.355-3(b)(3)(ii)) and acquisitions by one member of an affiliated group from another member of the affiliated group (as contemplated by § 1.355-3(b)(4)(iii)).
- (4j) Following the PS 4 Separation, the FSub 4 SAG will continue the active conduct of FSub 9 Business 1A and the PS 4 SAG will continue the active conduct of FSub 17 Business 2, independently and with their separate employees, except as provided pursuant to the Continuing Arrangements.
- (4k) The PS 4 Separation will be carried out for the corporate business purpose of facilitating the Separation. The PS 4 Separation is motivated, in whole or substantial part, by this corporate business purpose.
- (4l) The PS 4 Separation is not being used principally as a device for the distribution of the earnings and profits of FSub 4 or PS 4 or both.
- (4m) The distribution of PS 4 equity interests to Sub 12 in the PS 4 Distribution is with respect to Sub 12's ownership of FSub 4 stock. Any money, property, or stock transferred (or deemed transferred) by FSub 4 to PS 4 in the PS 4 Contribution will be exchanged (or deemed exchanged) solely for equity interests in PS 4.
- (4n) The total fair market value of the assets that will be transferred (or deemed transferred) by FSub 4 to PS 4 in the PS 4 Contribution will exceed the sum of: (i) the total liabilities (if any) that will be assumed (within the meaning of section 357(d)) by PS 4 in connection with the PS 4 Separation; (ii) the amount of liabilities (if any) owed to PS 4 by FSub 4 that will be discharged or extinguished in connection with the PS 4 Separation; and (iii) the amount of cash and the fair market value of the property (if any) (other than stock and securities permitted to be received under section 361(a) without the recognition of gain) that will be received by FSub 4 from PS 4 in connection with the PS 4 Separation. The fair market value of the assets of PS 4 will exceed the amount of its liabilities immediately after the PS 4 Contribution.
- (4o) The total adjusted basis of the assets that will be transferred (or deemed transferred) by FSub 4 to PS 4 in the PS 4 Contribution will equal or exceed the sum of (i) any liabilities that will be assumed (within the meaning of

- section 357(d)) by PS 4 (other than liabilities to which section 357(c)(3) applies) in connection with the PS 4 Separation, and (ii) the total amount of any money and the fair market value of any other property (within the meaning of section 361(b)) that will be received by FSub 4 from PS 4 and transferred to FSub 4's creditors and shareholders in connection with the reorganization.
- (4p) The liabilities, if any, that will be assumed (within the meaning of section 357(d)) by PS 4 in connection with the PS 4 Separation will have been incurred in the ordinary course of business and will be associated with the assets to be transferred.
  - (4q) Except pursuant to the elimination or reduction of intercompany balances in connection with the PS 4 Separation, FSub 4 will have neither accumulated its receivables nor made extraordinary payment of its payables in anticipation of the PS 4 Separation.
  - (4r) No intercorporate debt will exist between FSub 4 (or any member of the FSub 4 SAG) and PS 4 (or any member of the PS 4 SAG) at the time of, or subsequent to, the PS 4 Separation, other than any debt that arises in the ordinary course of business or under the Continuing Arrangements.
  - (4s) Except with respect to certain payments made pursuant to the Continuing Arrangements, payments made in connection with all continuing transactions between FSub 4 (or any member of the FSub 4 SAG) and PS 4 (or any member of the PS 4 SAG) following the PS 4 Separation will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length.
  - (4t) No two parties to the transaction are investment companies as defined in section 368(a)(2)(F)(iii) and (iv).
  - (4u) FSub 4, PS 4, and Sub 12 each will pay its own expenses, if any, incurred in connection with the PS 4 Separation.
  - (4v) No party to the PS 4 Separation is under the jurisdiction of a court in a Title 11 or similar case within the meaning of section 368(a)(3)(A).
  - (4w) For purposes of section 355(d), immediately after the PS 4 Distribution, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of FSub 4 stock entitled to vote, or 50 percent or more of the total value of shares of all classes of FSub 4 stock, that was acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period

(determined after applying section 355(d)(6)) ending on the date of the PS 4 Distribution.

- (4x) For purposes of section 355(d), immediately after the PS 4 Distribution, no person (determined after applying section 355(d)(7)) will hold equity interests possessing 50 percent or more of the total combined voting power of all classes of PS 4 equity interests entitled to vote, or 50 percent or more of the total value of shares of all classes of PS 4 equity interests, that was either (i) acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the PS 4 Distribution, or (ii) attributable to distributions on FSub 4 stock or securities that were acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the PS 4 Distribution.
- (4y) The PS 4 Separation is not part of a plan or series of related transactions (within the meaning of § 1.355-7) pursuant to which one or more persons will acquire, directly or indirectly, stock (or other equity interests) representing a 50-percent or greater interest (within the meaning of section 355(d)(4)) in FSub 4 or PS 4 (including any predecessor of or successor to any such corporation).
- (4z) Immediately after the transaction (as defined in section 355(g)(4)), (i) no person will hold a 50-percent or greater interest (within the meaning of section 355(g)(3)) in FSub 4 or PS 4, (ii) if any person holds a 50-percent or greater interest (within the meaning of section 355(g)(3)) in any disqualified investment corporation (within the meaning of section 355(g)(2)), such person will have held such interest in such corporation immediately before the transaction, or (iii) neither FSub 4 nor PS 4 will be a disqualified investment corporation (within the meaning of section 355(g)(2)).
- (4aa) FSub 4's actual or deemed transfer of assets to PS 4 in actual or deemed exchange for additional PS 4 stock in the PS 4 Contribution is not an exchange described in §§ 1.367(b)-4(b)(1)(i), -4(b)(2)(i), or -4(b)(3).
- (4bb) FSub 4 and PS4 will be controlled foreign corporations, within the meaning of section 957(a), immediately before and after the PS 4 Distribution.
- (4cc) Sub 12 will be a section 1248 shareholder, within the meaning of § 1.367(b)-2(b), with respect to each of FSub 4 and PS 4 immediately before and after the PS 4 Distribution.
- (4dd) FSub 4 and PS 4 will not be passive foreign investment companies, within the meaning of section 1297(a), immediately before or after the PS 4 Distribution.

- (4ee) PS 4 will not hold any United States real property interests, as defined in section 897(c)(1), immediately before or after the PS 4 Distribution.

*Sub 13 Separation*

The following representations are made with respect to the Sub 13 Separation:

- (5a) Sub 12 will treat all members of its separate affiliated group (within the meaning of section 355(b)(3)(B)) (the "Sub 12 SAG") as one corporation in determining whether it satisfies the requirements of section 355(b)(2)(A) regarding the active conduct of a trade or business.
- (5b) Sub 13 will treat all members of its separate affiliated group (within the meaning of section 355(b)(3)(B)) (the "Sub 13 SAG") as one corporation in determining whether it satisfies the requirements of section 355(b)(2)(A) regarding the active conduct of a trade or business.
- (5c) Any indebtedness owed by Sub 13 (or any member of the Sub 13 SAG) to Sub 12 (or any member of the Sub 12 SAG) after the Sub 13 Separation will not constitute stock or securities.
- (5d) If the Sub 13 Distribution is effected as an exchange for specifically identified shares of Sub 12 stock owned by Distributing (through Controlled LLC), the fair market value of the Sub 13 stock to be received by Distributing will be approximately equal to the fair market value of the Sub 12 stock surrendered by Distributing in the Sub 13 Distribution.
- (5e) No part of the consideration to be distributed by Sub 12 in the Sub 13 Distribution will be received by Distributing as a creditor or an employee, or in any capacity other than that of a shareholder of Sub 12.
- (5f) The 5 years of financial information submitted with respect to FSub 9 Business 1A is representative of the present operation of FSub 9 Business 1A, and with regard to such business, there have been no substantial operational changes since the date of the last financial statements submitted.
- (5g) The 5 years of financial information submitted with respect to FSub 17 Business 2 is representative of the present operation of FSub 17 Business 2, and with regard to such business, there have been no substantial operational changes since the date of the last financial statements submitted.
- (5h) Neither FSub 9 Business 1A nor control of an entity conducting FSub 9 Business 1A will have been acquired during the five-year period ending on



- the date of the Sub 13 Distribution in a transaction in which gain or loss was recognized (or treated as recognized for U.S. federal income tax purposes) in whole or in part, except for acquisitions that constitute expansions or that did not result in a change to the existing business of such a character as to constitute the acquisition of a new or different business (as contemplated by § 1.355-3(b)(3)(ii)) and acquisitions by one member of an affiliated group from another member of the affiliated group (as contemplated by § 1.355-3(b)(4)(iii)).
- (5i) Neither FSub 17 Business 2 nor control of an entity conducting FSub 17 Business 2 will have been acquired during the five-year period ending on the date of the Sub 13 Distribution in a transaction in which gain or loss was recognized (or treated as recognized for U.S. federal income tax purposes) in whole or in part, except for acquisitions that constitute expansions or that did not result in a change to the existing business of such a character as to constitute the acquisition of a new or different business (as contemplated by § 1.355-3(b)(3)(ii)) and acquisitions by one member of an affiliated group from another member of the affiliated group (as contemplated by § 1.355-3(b)(4)(iii)).
- (5j) Following the Sub 13 Separation, the Sub 12 SAG will continue the active conduct of FSub 9 Business 1A and the Sub 13 SAG will continue the active conduct of FSub 17 Business 2, independently and with their separate employees, except as provided pursuant to the Continuing Arrangements.
- (5k) The Sub 13 Separation will be carried out for the corporate business purpose of facilitating the Separation. The Sub 13 Separation is motivated, in whole or substantial part, by this corporate business purpose.
- (5l) The Sub 13 Separation is not being used principally as a device for the distribution of the earnings and profits of Sub 12 or Sub 13 or both.
- (5m) The distribution of Sub 13 stock to Distributing in the Sub 13 Distribution is with respect to Distributing's ownership of Sub 12 stock. Any money, property, or stock transferred by Sub 12 to Sub 13 in the Sub 13 Contribution will be exchanged (or deemed exchanged) solely for stock of Sub 13.
- (5n) The total fair market value of the assets that will be transferred by Sub 12 to Sub 13 in the Sub 13 Contribution will exceed the sum of: (i) the total liabilities (if any) that will be assumed (within the meaning of section 357(d)) by Sub 13 in connection with the Sub 13 Separation; (ii) the amount of liabilities (if any) owed to Sub 13 by Sub 12 that will be discharged or extinguished in connection with the Sub 13 Separation; and (iii) the amount of cash and the fair market value of the property (if any) (other than stock and securities

- permitted to be received under section 361(a) without the recognition of gain) that will be received by Sub 12 from Sub 13 in connection with the Sub 13 Separation. The fair market value of the assets of Sub 13 will exceed the amount of its liabilities immediately after the Sub 13 Contribution.
- (5o) The total adjusted basis of the assets that will be transferred by Sub 12 to Sub 13 in the Sub 13 Contribution will equal or exceed the sum of (i) any liabilities that will be assumed (within the meaning of section 357(d)) by Sub 13 (other than liabilities to which section 357(c)(3) applies) in connection with the Sub 13 Separation, and (ii) the total amount of any money and the fair market value of any other property (within the meaning of section 361(b)) that will be received by Sub 12 from Sub 13 and transferred to Sub 12's creditors and shareholders in connection with the reorganization.
- (5p) The liabilities, if any, that will be assumed (within the meaning of section 357(d)) by Sub 13 in connection with the Sub 13 Separation will have been incurred in the ordinary course of business and will be associated with the assets to be transferred.
- (5q) Except pursuant to the elimination or reduction of intercompany balances in connection with the Sub 13 Separation, Sub 12 will have neither accumulated its receivables nor made extraordinary payment of its payables in anticipation of the Sub 13 Separation.
- (5r) No intercorporate debt will exist between Sub 12 (or any member of the Sub 12 SAG) and Sub 13 (or any member of the Sub 13 SAG) at the time of, or subsequent to, the Sub 13 Separation, other than any debt that arises in the ordinary course of business or under the Continuing Arrangements.
- (5s) Immediately before the Sub 13 Distribution, items of income, gain, loss, deduction, and credit will be taken into account as required by the applicable intercompany transaction regulations (see §§ 1.1502-13 and 1.1502-14 as in effect before the publication of T.D. 8597, 1995-2 C.B. 147, and as currently in effect; § 1.1502-13 as published by T.D. 8597). At the time of the Sub 13 Distribution, there will not be an excess loss account in the stock of Sub 13.
- (5t) Except with respect to certain payments made pursuant to the Continuing Arrangements, payments made in connection with all continuing transactions between Sub 12 (or any member of the Sub 12 SAG) and Sub 13 (or any member of the Sub 13 SAG) following the Sub 13 Separation will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length.

- (5u) No two parties to the transaction are investment companies as defined in section 368(a)(2)(F)(iii) and (iv).
- (5v) Sub 12, Sub 13, and Distributing each will pay its own expenses, if any, incurred in connection with the Sub 13 Separation.
- (5w) No party to the Sub 13 Separation is under the jurisdiction of a court in a Title 11 or similar case within the meaning of section 368(a)(3)(A).
- (5x) For purposes of section 355(d), immediately after the Sub 13 Distribution, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Sub 12 stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Sub 12 stock, that was acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the Sub 13 Distribution.
- (5y) For purposes of section 355(d), immediately after the Sub 13 Distribution, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Sub 13 stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Sub 13 stock, that was either (i) acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the Sub 13 Distribution, or (ii) attributable to distributions on Sub 12 stock or securities that were acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the Sub 13 Distribution.
- (5z) The Sub 13 Separation is not part of a plan or series of related transactions (within the meaning of § 1.355-7) pursuant to which one or more persons will acquire, directly or indirectly, stock representing a 50-percent or greater interest (within the meaning of section 355(d)(4)) in Sub 12 or Sub 13 (including any predecessor of or successor to any such corporation).
- (5aa) Immediately after the transaction (as defined in section 355(g)(4)), (i) no person will hold a 50-percent or greater interest (within the meaning of section 355(g)(3)) in Sub 12 or Sub 13, (ii) if any person holds a 50-percent or greater interest (within the meaning of section 355(g)(3)) in any disqualified investment corporation (within the meaning of section 355(g)(2)), such person will have held such interest in such corporation immediately before the transaction, or (iii) neither Sub 12 nor Sub 13 will be a disqualified investment corporation (within the meaning of section 355(g)(2)).

*FSub 20 Separation*

The following representations are made with respect to the FSub 20 Separation:

- (6a) FSub 13 will treat all members of its separate affiliated group (within the meaning of section 355(b)(3)(B)) (the “FSub 13 SAG”) as one corporation in determining whether it satisfies the requirements of section 355(b)(2)(A) regarding the active conduct of a trade or business.
- (6b) FSub 20 will treat all members of its separate affiliated group (within the meaning of section 355(b)(3)(B)) (the “FSub 20 SAG”) as one corporation in determining whether it satisfies the requirements of section 355(b)(2)(A) regarding the active conduct of a trade or business.
- (6c) Any indebtedness owed by FSub 20 (or any member of the FSub 20 SAG) to FSub 13 (or any member of the FSub 13 SAG) after the FSub 20 Separation will not constitute stock or securities.
- (6d) The fair market value of the FSub 20 stock deemed received by FSub 11 in the FSub 20 Distribution will be approximately equal to the fair market value of the FSub 13 stock cancelled by FSub 11 in the FSub 20 Distribution.
- (6e) No part of the consideration deemed to be distributed by FSub 13 in the FSub 20 Distribution will be received by FSub 11 as a creditor or an employee, or in any capacity other than that of a shareholder of FSub 13.
- (6f) The 5 years of financial information submitted with respect to FSub 13 Business 2 is representative of the present operation of FSub 13 Business 2, and with regard to such business, there have been no substantial operational changes since the date of the last financial statements submitted.
- (6g) The 5 years of financial information submitted with respect to FSub 20 Business 1A is representative of the present operation of FSub 20 Business 1A, and with regard to such business, there have been no substantial operational changes since the date of the last financial statements submitted.
- (6h) Neither FSub 13 Business 2 nor control of an entity conducting FSub 13 Business 2 will have been acquired during the five-year period ending on the date of the FSub 20 Distribution in a transaction in which gain or loss was recognized (or treated as recognized for U.S. federal income tax purposes) in whole or in part, except for acquisitions that constitute expansions or that did not result in a change to the existing business of such a character as to constitute the acquisition of a new or different business (as contemplated by

- § 1.355-3(b)(3)(ii)) and acquisitions by one member of an affiliated group from another member of the affiliated group (as contemplated by § 1.355-3(b)(4)(iii)).
- (6i) Neither FSub 20 Business 1A nor control of an entity conducting FSub 20 Business 1A will have been acquired during the five-year period ending on the date of the FSub 20 Distribution in a transaction in which gain or loss was recognized (or treated as recognized for U.S. federal income tax purposes) in whole or in part, except for acquisitions that constitute expansions or that did not result in a change to the existing business of such a character as to constitute the acquisition of a new or different business (as contemplated by § 1.355-3(b)(3)(ii)) and acquisitions by one member of an affiliated group from another member of the affiliated group (as contemplated by § 1.355-3(b)(4)(iii)).
- (6j) Following the FSub 20 Separation, the FSub 13 SAG will continue the active conduct of FSub 13 Business 2 and the FSub 20 SAG will continue the active conduct of FSub 20 Business 1A, independently and with their separate employees, except as provided pursuant to the Continuing Arrangements.
- (6k) The FSub 20 Separation will be carried out for the corporate business purpose of facilitating the Separation. The FSub 20 Separation is motivated, in whole or substantial part, by this corporate business purpose.
- (6l) The FSub 20 Separation is not being used principally as a device for the distribution of the earnings and profits of FSub 13 or FSub 20 or both.
- (6m) The deemed distribution of FSub 20 stock to FSub 11 in the FSub 20 Distribution is with respect to FSub 11's ownership of FSub 13 stock. Any money, property, or stock transferred by FSub 13 to FSub 20 in the FSub 20 Contribution will be exchanged (or deemed exchanged) solely for stock of FSub 20 and the assumption of liabilities by FSub 20.
- (6n) The total fair market value of the assets that will be transferred by FSub 13 to FSub 20 in the FSub 20 Contribution will exceed the sum of: (i) the total liabilities (if any) that will be assumed (within the meaning of section 357(d)) by FSub 20 in connection with the FSub 20 Separation; (ii) the amount of liabilities (if any) owed to FSub 20 by FSub 13 that will be discharged or extinguished in connection with the FSub 20 Separation; and (iii) the amount of cash and the fair market value of the property (if any) (other than stock and securities permitted to be received under section 361(a) without the recognition of gain) that will be received by FSub 13 from FSub 20 in connection with the FSub 20 Separation. The fair market value of the assets

- of FSub 20 will exceed the amount of its liabilities immediately after the FSub 20 Contribution.
- (6o) The total adjusted basis of the assets that will be transferred by FSub 13 to FSub 20 in the FSub 20 Contribution will equal or exceed the sum of (i) any liabilities that will be assumed (within the meaning of section 357(d)) by FSub 20 (other than liabilities to which section 357(c)(3) applies) in connection with the FSub 20 Separation, and (ii) the total amount of any money and the fair market value of any other property (within the meaning of section 361(b)) that will be received by FSub 13 from FSub 20 and transferred to FSub 13's creditors and shareholders in connection with the reorganization.
  - (6p) The liabilities, if any, that will be assumed (within the meaning of section 357(d)) by FSub 20 in connection with the FSub 20 Separation will have been incurred in the ordinary course of business and will be associated with the assets to be transferred.
  - (6q) Except pursuant to the elimination or reduction of intercompany balances in connection with the FSub 20 Separation, FSub 13 will have neither accumulated its receivables nor made extraordinary payment of its payables in anticipation of the FSub 20 Separation.
  - (6r) No intercorporate debt will exist between FSub 13 (or any member of the FSub 13 SAG) and FSub 20 (or any member of the FSub 20 SAG) at the time of, or subsequent to, the FSub 20 Separation, other than any debt that arises in the ordinary course of business or under the Continuing Arrangements.
  - (6s) Except with respect to certain payments made pursuant to the Continuing Arrangements, payments made in connection with all continuing transactions between FSub 13 (or any member of the FSub 13 SAG) and FSub 20 (or any member of the FSub 20 SAG) following the FSub 20 Separation will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length.
  - (6t) No two parties to the transaction are investment companies as defined in section 368(a)(2)(F)(iii) and (iv).
  - (6u) FSub 13, FSub 20, and FSub 11 each will pay its own expenses, if any, incurred in connection with the FSub 20 Separation.
  - (6v) No party to the FSub 20 Separation is under the jurisdiction of a court in a Title 11 or similar case within the meaning of section 368(a)(3)(A).

- (6w) For purposes of section 355(d), immediately after the FSub 20 Distribution, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of FSub 13 stock entitled to vote, or 50 percent or more of the total value of shares of all classes of FSub 13 stock, that was acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the FSub 20 Distribution.
- (6x) For purposes of section 355(d), immediately after the FSub 20 Distribution, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of FSub 20 stock entitled to vote, or 50 percent or more of the total value of shares of all classes of FSub 20 stock, that was either (i) acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the FSub 20 Distribution, or (ii) attributable to distributions on FSub 13 stock or securities that were acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the FSub 20 Distribution.
- (6y) The FSub 20 Separation is not part of a plan or series of related transactions (within the meaning of § 1.355-7) pursuant to which one or more persons will acquire, directly or indirectly, stock representing a 50-percent or greater interest (within the meaning of section 355(d)(4)) in FSub 13 or FSub 20 (including any predecessor or successor to any such corporation).
- (6z) Immediately after the transaction (as defined in section 355(g)(4)), (i) no person will hold a 50-percent or greater interest (within the meaning of section 355(g)(3)) in FSub 13 or FSub 20, (ii) if any person holds a 50-percent or greater interest (within the meaning of section 355(g)(3)) in any disqualified investment corporation (within the meaning of section 355(g)(2)), such person will have held such interest in such corporation immediately before the transaction, or (iii) neither FSub 13 nor FSub 20 will be a disqualified investment corporation (within the meaning of section 355(g)(2)).
- (6aa) Neither FSub 13's transfer of assets to FSub 20 in actual or deemed exchange for stock of FSub 20 in the FSub 20 Contribution nor any actual or deemed distribution by FSub 13 of its FSub 20 stock to FSub 11 is an exchange described in §§ 1.367(b)-4(b)(1)(i), -4(b)(2)(i), or -4(b)(3).

### *FSub 19 Separation*

The following representations are made with respect to the FSub 19 Separation:

- (7a) FSub 11 will treat all members of its separate affiliated group (within the meaning of section 355(b)(3)(B)) (the “FSub 11 SAG”) as one corporation in determining whether it satisfies the requirements of section 355(b)(2)(A) regarding the active conduct of a trade or business.
- (7b) FSub 19 will treat all members of its separate affiliated group (within the meaning of section 355(b)(3)(B)) (the “FSub 19 SAG”) as one corporation in determining whether it satisfies the requirements of section 355(b)(2)(A) regarding the active conduct of a trade or business.
- (7c) Any indebtedness owed by FSub 19 (or any member of the FSub 19 SAG) to FSub 11 (or any member of the FSub 11 SAG) after the FSub 19 Separation will not constitute stock or securities.
- (7d) If the FSub 19 Distribution is effected as an exchange for specifically identified shares of FSub 11 stock owned by Sub 10, the fair market value of the FSub 19 stock to be received by Sub 10 will be approximately equal to the fair market value of the FSub 11 stock surrendered by Sub 10 in the FSub 19 Distribution.
- (7e) No part of the consideration to be distributed by FSub 11 in the FSub 19 Distribution will be received by Sub 10 as a creditor or an employee, or in any capacity other than that of a shareholder of FSub 11.
- (7f) The 5 years of financial information submitted with respect to FSub 13 Business 2 is representative of the present operation of FSub 13 Business 2, and with regard to such business, there have been no substantial operational changes since the date of the last financial statements submitted.
- (7g) The 5 years of financial information submitted with respect to FSub 20 Business 1A is representative of the present operation of FSub 20 Business 1A, and with regard to such business, there have been no substantial operational changes since the date of the last financial statements submitted.
- (7h) Neither FSub 13 Business 2 nor control of an entity conducting FSub 13 Business 2 will have been acquired during the five-year period ending on the date of the FSub 19 Distribution in a transaction in which gain or loss was recognized (or treated as recognized for U.S. federal income tax purposes) in whole or in part, except for acquisitions that constitute expansions or that did not result in a change to the existing business of such a character as to constitute the acquisition of a new or different business (as contemplated by § 1.355-3(b)(3)(ii)) and acquisitions by one member of an affiliated group from



- another member of the affiliated group (as contemplated by § 1.355-3(b)(4)(iii)).
- (7i) Neither FSub 20 Business 1A nor control of an entity conducting FSub 20 Business 1A will have been acquired during the five-year period ending on the date of the FSub 19 Distribution in a transaction in which gain or loss was recognized (or treated as recognized for U.S. federal income tax purposes) in whole or in part, except for acquisitions that constitute expansions or that did not result in a change to the existing business of such a character as to constitute the acquisition of a new or different business (as contemplated by § 1.355-3(b)(3)(ii)) and acquisitions by one member of an affiliated group from another member of the affiliated group (as contemplated by § 1.355-3(b)(4)(iii)).
- (7j) Following the FSub 19 Separation, the FSub 11 SAG will continue the active conduct of FSub 13 Business 2 and the FSub 19 SAG will continue the active conduct of FSub 20 Business 1A, independently and with their separate employees, except as provided pursuant to the Continuing Arrangements.
- (7k) The FSub 19 Separation will be carried out for the corporate business purpose of facilitating the Separation. The FSub 19 Separation is motivated, in whole or substantial part, by this corporate business purpose.
- (7l) The FSub 19 Separation is not being used principally as a device for the distribution of the earnings and profits of FSub 11 or FSub 19 or both.
- (7m) The distribution of FSub 19 stock to Sub 10 in the FSub 19 Distribution is with respect to Sub 10's ownership of FSub 11 stock. Any money, property, or stock transferred by FSub 11 to FSub 19 in the FSub 19 Contribution will be exchanged solely for stock of FSub 19.
- (7n) The total fair market value of the assets that will be transferred by FSub 11 to FSub 19 in the FSub 19 Contribution will exceed the sum of: (i) the total liabilities (if any) that will be assumed (within the meaning of section 357(d)) by FSub 19 in connection with the FSub 19 Separation; (ii) the amount of liabilities (if any) owed to FSub 19 by FSub 11 that will be discharged or extinguished in connection with the FSub 19 Separation; and (iii) the amount of cash and the fair market value of the property (if any) (other than stock and securities permitted to be received under section 361(a) without the recognition of gain) that will be received by FSub 11 from FSub 19 in connection with the FSub 19 Separation. The fair market value of the assets of FSub 19 will exceed the amount of its liabilities immediately after the FSub 19 Contribution.

- (7o) The total adjusted basis of the assets that will be transferred by FSub 11 to FSub 19 in the FSub 19 Contribution will equal or exceed the sum of (i) any liabilities that will be assumed (within the meaning of section 357(d)) by FSub 19 (other than liabilities to which section 357(c)(3) applies) in connection with the FSub 19 Separation, and (ii) the total amount of any money and the fair market value of any other property (within the meaning of section 361(b)) that will be received by FSub 11 from FSub 19 and transferred to FSub 11's creditors and shareholders in connection with the reorganization.
- (7p) The liabilities, if any, that will be assumed (within the meaning of section 357(d)) by FSub 19 in connection with the FSub 19 Separation will have been incurred in the ordinary course of business and will be associated with the assets to be transferred.
- (7q) Except pursuant to the elimination or reduction of intercompany balances in connection with the FSub 19 Separation, FSub 11 will have neither accumulated its receivables nor made extraordinary payment of its payables in anticipation of the FSub 19 Separation.
- (7r) No intercorporate debt will exist between FSub 11 (or any member of the FSub 11 SAG) and FSub 19 (or any member of the FSub 19 SAG) at the time of, or subsequent to, the FSub 19 Separation, other than any debt that arises in the ordinary course of business or under the Continuing Arrangements.
- (7s) Except with respect to certain payments made pursuant to the Continuing Arrangements, payments made in connection with all continuing transactions between FSub 11 (or any member of the FSub 11 SAG) and FSub 19 (or any member of the FSub 19 SAG) following the FSub 19 Separation will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length.
- (7t) No two parties to the transaction are investment companies as defined in section 368(a)(2)(F)(iii) and (iv).
- (7u) FSub 11, FSub 19, and Sub 10 each will pay its own expenses, if any, incurred in connection with the FSub 19 Separation.
- (7v) No party to the FSub 19 Separation is under the jurisdiction of a court in a Title 11 or similar case within the meaning of section 368(a)(3)(A).
- (7w) For purposes of section 355(d), immediately after the FSub 19 Distribution, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of FSub 11 stock entitled to vote, or 50 percent or more of the total

- value of shares of all classes of FSub 11 stock, that was acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the FSub 19 Distribution.
- (7x) For purposes of section 355(d), immediately after the FSub 19 Distribution, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of FSub 19 stock entitled to vote, or 50 percent or more of the total value of shares of all classes of FSub 19 stock, that was either (i) acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the FSub 19 Distribution, or (ii) attributable to distributions on FSub 11 stock or securities that were acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the FSub 19 Distribution.
- (7y) The FSub 19 Separation is not part of a plan or series of related transactions (within the meaning of § 1.355-7) pursuant to which one or more persons will acquire, directly or indirectly, stock representing a 50-percent or greater interest (within the meaning of section 355(d)(4)) in FSub 11 or FSub 19 (including any predecessor of or successor to any such corporation).
- (7z) Immediately after the transaction (as defined in section 355(g)(4)), (i) no person will hold a 50-percent or greater interest (within the meaning of section 355(g)(3)) in FSub 11 or FSub 19, (ii) if any person holds a 50-percent or greater interest (within the meaning of section 355(g)(3)) in any disqualified investment corporation (within the meaning of section 355(g)(2)), such person will have held such interest in such corporation immediately before the transaction, or (iii) neither FSub 11 nor FSub 19 will be a disqualified investment corporation (within the meaning of section 355(g)(2)).
- (7aa) FSub 11's transfer of FSub 20 stock to FSub 19 in exchange for additional FSub 19 stock in the FSub 19 Contribution is not an exchange described in §§ 1.367(b)-4(b)(1)(i), -4(b)(2)(i), or -4(b)(3).
- (7bb) FSub 11 and FSub 19 will be controlled foreign corporations, within the meaning of section 957(a), immediately before and after the FSub 19 Distribution.
- (7cc) Sub 10 will be a section 1248 shareholder, within the meaning of § 1.367(b)-2(b), with respect to each of FSub 11 and FSub 19 immediately before and after the FSub 19 Distribution.

- (7dd) FSub 11 and FSub 19 will not be passive foreign investment companies, within the meaning of section 1297(a), immediately before or after the FSub 19 Distribution.
- (7ee) FSub 19 will not hold any United States real property interests, as defined in section 897(c)(1), immediately before or after the FSub 19 Distribution.

### *Sub 14 Separation*

The following representations are made with respect to the Sub 14 Separation:

- (8a) Sub 10 will treat all members of its separate affiliated group (within the meaning of section 355(b)(3)(B)) (the "Sub 10 SAG") as one corporation in determining whether it satisfies the requirements of section 355(b)(2)(A) regarding the active conduct of a trade or business.
- (8b) Sub 14 will treat all members of its separate affiliated group (within the meaning of section 355(b)(3)(B)) (the "Sub 14 SAG") as one corporation in determining whether it satisfies the requirements of section 355(b)(2)(A) regarding the active conduct of a trade or business.
- (8c) Any indebtedness owed by Sub 14 (or any member of the Sub 14 SAG) to Sub 10 (or any member of the Sub 10 SAG) after the Sub 14 Separation will not constitute stock or securities.
- (8d) If the Sub 14 Distribution is effected as an exchange for specifically identified shares of Sub 10 stock owned by Distributing, the fair market value of the Sub 14 stock to be received by Distributing will be approximately equal to the fair market value of the Sub 10 stock surrendered by Distributing in the Sub 14 Distribution.
- (8e) No part of the consideration to be distributed by Sub 10 in the Sub 14 Distribution will be received by Distributing as a creditor or an employee, or in any capacity other than that of a shareholder of Sub 10.
- (8f) The 5 years of financial information submitted with respect to FSub 13 Business 2 is representative of the present operation of FSub 13 Business 2, and with regard to such business, there have been no substantial operational changes since the date of the last financial statements submitted.
- (8g) The 5 years of financial information submitted with respect to FSub 20 Business 1A is representative of the present operation of FSub 20 Business 1A, and with regard to such business, there have been no substantial operational changes since the date of the last financial statements submitted.

- (8h) Neither FSub 13 Business 2 nor control of an entity conducting FSub 13 Business 2 will have been acquired during the five-year period ending on the date of the Sub 14 Distribution in a transaction in which gain or loss was recognized (or treated as recognized for U.S. federal income tax purposes) in whole or in part, except for acquisitions that constitute expansions or that did not result in a change to the existing business of such a character as to constitute the acquisition of a new or different business (as contemplated by § 1.355-3(b)(3)(ii)) and acquisitions by one member of an affiliated group from another member of the affiliated group (as contemplated by § 1.355-3(b)(4)(iii)).
- (8i) Neither FSub 20 Business 1A nor control of an entity conducting FSub 20 Business 1A will have been acquired during the five-year period ending on the date of the Sub 14 Distribution in a transaction in which gain or loss was recognized (or treated as recognized for U.S. federal income tax purposes) in whole or in part, except for acquisitions that constitute expansions or that did not result in a change to the existing business of such a character as to constitute the acquisition of a new or different business (as contemplated by § 1.355-3(b)(3)(ii)) and acquisitions by one member of an affiliated group from another member of the affiliated group (as contemplated by § 1.355-3(b)(4)(iii)).
- (8j) Following the Sub 14 Separation, the Sub 10 SAG will continue the active conduct of FSub 13 Business 2 and the Sub 14 SAG will continue the active conduct of FSub 20 Business 1A, independently and with their separate employees, except as provided pursuant to the Continuing Arrangements.
- (8k) The Sub 14 Separation will be carried out for the corporate business purpose of facilitating the Separation. The Sub 14 Separation is motivated, in whole or substantial part, by this corporate business purpose.
- (8l) The Sub 14 Separation is not being used principally as a device for the distribution of the earnings and profits of Sub 10 or Sub 14 or both.
- (8m) The distribution of Sub 14 stock to Distributing in the Sub 14 Distribution is with respect to Distributing's ownership of Sub 10 stock. Any money, property, or stock transferred by Sub 10 to Sub 14 in the Sub 14 Contribution will be exchanged solely for stock of Sub 14.
- (8n) The total fair market value of the assets that will be transferred by Sub 10 to Sub 14 in the Sub 14 Contribution will exceed the sum of: (i) the total liabilities (if any) that will be assumed (within the meaning of section 357(d)) by Sub 14 in connection with the Sub 14 Separation; (ii) the amount of liabilities (if any)

- owed to Sub 14 by Sub 10 that will be discharged or extinguished in connection with the Sub 14 Separation; and (iii) the amount of cash and the fair market value of the property (if any) (other than stock and securities permitted to be received under section 361(a) without the recognition of gain) that will be received by Sub 10 from Sub 14 in connection with the Sub 14 Separation. The fair market value of the assets of Sub 14 will exceed the amount of its liabilities immediately after the Sub 14 Contribution.
- (8o) The total adjusted basis of the assets that will be transferred by Sub 10 to Sub 14 in the Sub 14 Contribution will equal or exceed the sum of (i) any liabilities that will be assumed (within the meaning of section 357(d)) by Sub 14 (other than liabilities to which section 357(c)(3) applies) in connection with the Sub 14 Separation, and (ii) the total amount of any money and the fair market value of any other property (within the meaning of section 361(b)) that will be received by Sub 10 from Sub 14 and transferred to Sub 10's creditors and shareholders in connection with the reorganization.
- (8p) The liabilities, if any, that will be assumed (within the meaning of section 357(d)) by Sub 14 in connection with the Sub 14 Separation will have been incurred in the ordinary course of business and will be associated with the assets to be transferred.
- (8q) Except pursuant to the elimination or reduction of intercompany balances in connection with the Sub 14 Separation, Sub 10 will have neither accumulated its receivables nor made extraordinary payment of its payables in anticipation of the Sub 14 Separation.
- (8r) No intercorporate debt will exist between Sub 10 (or any member of the Sub 10 SAG) and Sub 14 (or any member of the Sub 14 SAG) at the time of, or subsequent to, the Sub 14 Separation, other than any debt that arises in the ordinary course of business or under the Continuing Arrangements.
- (8s) Immediately before the Sub 14 Distribution, items of income, gain, loss, deduction, and credit will be taken into account as required by the applicable intercompany transaction regulations (see §§ 1.1502-13 and 1.1502-14 as in effect before the publication of T.D. 8597, 1995-2 C.B. 147, and as currently in effect; § 1.1502-13 as published by T.D. 8597). At the time of the Sub 14 Distribution, there will not be an excess loss account in the stock of Sub 14. Further, any excess loss account in the stock of any member that is a direct or indirect subsidiary of Sub 14 will be taken into income immediately before the members cease to be members of the Distributing Consolidated Group in the External Distribution to the extent required by regulations (see § 1.1502-19).

- (8t) Except with respect to certain payments made pursuant to the Continuing Arrangements, payments made in connection with all continuing transactions between Sub 10 (or any member of the Sub 10 SAG) and Sub 14 (or any member of the Sub 14 SAG) following the Sub 14 Separation will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length.
- (8u) No two parties to the transaction are investment companies as defined in section 368(a)(2)(F)(iii) and (iv).
- (8v) Sub 10, Sub 14, and Distributing each will pay its own expenses, if any, incurred in connection with the Sub 14 Separation.
- (8w) No party to the Sub 14 Separation is under the jurisdiction of a court in a Title 11 or similar case within the meaning of section 368(a)(3)(A).
- (8x) For purposes of section 355(d), immediately after the Sub 14 Distribution, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Sub 10 stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Sub 10 stock, that was acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the Sub 14 Distribution.
- (8y) For purposes of section 355(d), immediately after the Sub 14 Distribution, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Sub 14 stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Sub 14 stock, that was either (i) acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the Sub 14 Distribution, or (ii) attributable to distributions on Sub 10 stock or securities that were acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the Sub 14 Distribution.
- (8z) The Sub 14 Separation is not part of a plan or series of related transactions (within the meaning of § 1.355-7) pursuant to which one or more persons will acquire, directly or indirectly, stock representing a 50-percent or greater interest (within the meaning of section 355(d)(4)) in Sub 10 or Sub 14 (including any predecessor of or successor to any such corporation).

- (8aa) Immediately after the transaction (as defined in section 355(g)(4)), (i) no person will hold a 50-percent or greater interest (within the meaning of section 355(g)(3)) in Sub 10 or Sub 14, (ii) if any person holds a 50-percent or greater interest (within the meaning of section 355(g)(3)) in any disqualified investment corporation (within the meaning of section 355(g)(2)), such person will have held such interest in such corporation immediately before the transaction, or (iii) neither Sub 10 nor Sub 14 will be a disqualified investment corporation (within the meaning of section 355(g)(2)).

### *FSub 21 Separation*

The following representations are made with respect to the FSub 21 Separation:

- (9a) FSub 14 will treat all members of its separate affiliated group (within the meaning of section 355(b)(3)(B)) (the “FSub 14 SAG”) as one corporation in determining whether it satisfies the requirements of section 355(b)(2)(A) regarding the active conduct of a trade or business.
- (9b) FSub 21 will treat all members of its separate affiliated group (within the meaning of section 355(b)(3)(B)) (the “FSub 21 SAG”) as one corporation in determining whether it satisfies the requirements of section 355(b)(2)(A) regarding the active conduct of a trade or business.
- (9c) Any indebtedness owed by FSub 21 (or any member of the FSub 21 SAG) to FSub 14 (or any member of the FSub 14 SAG) after the FSub 21 Separation will not constitute stock or securities.
- (9d) If the FSub 21 Distribution is effected as an exchange for specifically identified shares of FSub 14 stock owned by Sub 11, the fair market value of the FSub 21 stock deemed received by Sub 11 will be approximately equal to the fair market value of the FSub 14 stock surrendered by Sub 11 in the FSub 21 Distribution.
- (9e) No part of the consideration deemed distributed by FSub 14 in the FSub 21 Distribution will be received by Sub 11 as a creditor or an employee, or in any capacity other than that of a shareholder of FSub 14.
- (9f) The 5 years of financial information submitted with respect to FSub 14 Business 2 is representative of the present operation of FSub 14 Business 2, and with regard to such business, there have been no substantial operational changes since the date of the last financial statements submitted.
- (9g) The 5 years of financial information submitted with respect to FSub 21 Business 1A is representative of the present operation of FSub 21 Business



1A, and with regard to such business, there have been no substantial operational changes since the date of the last financial statements submitted.

- (9h) Neither FSub 14 Business 2 nor control of an entity conducting FSub 14 Business 2 will have been acquired during the five-year period ending on the date of the FSub 21 Distribution in a transaction in which gain or loss was recognized (or treated as recognized for U.S. federal income tax purposes) in whole or in part, except for acquisitions that constitute expansions or that did not result in a change to the existing business of such a character as to constitute the acquisition of a new or different business (as contemplated by § 1.355-3(b)(3)(ii)) and acquisitions by one member of an affiliated group from another member of the affiliated group (as contemplated by § 1.355-3(b)(4)(iii)).
- (9i) Neither FSub 21 Business 1A nor control of an entity conducting FSub 21 Business 1A will have been acquired during the five-year period ending on the date of the FSub 21 Distribution in a transaction in which gain or loss was recognized (or treated as recognized for U.S. federal income tax purposes) in whole or in part, except for acquisitions that constitute expansions or that did not result in a change to the existing business of such a character as to constitute the acquisition of a new or different business (as contemplated by § 1.355-3(b)(3)(ii)) and acquisitions by one member of an affiliated group from another member of the affiliated group (as contemplated by § 1.355-3(b)(4)(iii)).
- (9j) Following the FSub 21 Separation, the FSub 14 SAG will continue the active conduct of FSub 14 Business 2 and the FSub 21 SAG will continue the active conduct of FSub 21 Business 1A, independently and with their separate employees, except as provided pursuant to the Continuing Arrangements.
- (9k) The FSub 21 Separation will be carried out for the corporate business purpose of facilitating the Separation. The FSub 21 Separation is motivated, in whole or substantial part, by this corporate business purpose.
- (9l) The FSub 21 Separation is not being used principally as a device for the distribution of the earnings and profits of FSub 14 or FSub 21 or both.
- (9m) The deemed distribution of FSub 21 stock to Sub 11 in the FSub 21 Distribution is with respect to Sub 11's ownership of FSub 14 stock. Any money, property, or stock transferred by FSub 14 to FSub 21 in the FSub 21 Contribution will be exchanged (or deemed exchanged) solely for stock of FSub 21 and the assumption of liabilities by FSub 21.

- (9n) The total fair market value of the assets that will be transferred by FSub 14 to FSub 21 in the FSub 21 Contribution will exceed the sum of: (i) the total liabilities (if any) that will be assumed (within the meaning of section 357(d)) by FSub 21 in connection with the FSub 21 Separation; (ii) the amount of liabilities (if any) owed to FSub 21 by FSub 14 that will be discharged or extinguished in connection with the FSub 21 Separation; and (iii) the amount of cash and the fair market value of the property (if any) (other than stock and securities permitted to be received under section 361(a) without the recognition of gain) that will be received by FSub 14 from FSub 21 in connection with the FSub 21 Separation. The fair market value of the assets of FSub 21 will exceed the amount of its liabilities immediately after the FSub 21 Contribution.
- (9o) The total adjusted basis of the assets that will be transferred by FSub 14 to FSub 21 in the FSub 21 Contribution will equal or exceed the sum of (i) any liabilities that will be assumed (within the meaning of section 357(d)) by FSub 21 (other than liabilities to which section 357(c)(3) applies) in connection with the FSub 21 Separation, and (ii) the total amount of any money and the fair market value of any other property (within the meaning of section 361(b)) that will be received by FSub 14 from FSub 21 and transferred to FSub 14's creditors and shareholders in connection with the reorganization.
- (9p) The liabilities, if any, that will be assumed (within the meaning of section 357(d)) by FSub 21 in connection with the FSub 21 Separation will have been incurred in the ordinary course of business and will be associated with the assets to be transferred.
- (9q) Except pursuant to the elimination or reduction of intercompany balances in connection with the FSub 21 Separation, FSub 14 will have neither accumulated its receivables nor made extraordinary payment of its payables in anticipation of the FSub 21 Separation.
- (9r) No intercorporate debt will exist between FSub 14 (or any member of the FSub 14 SAG) and FSub 21 (or any member of the FSub 21 SAG) at the time of, or subsequent to, the FSub 21 Separation, other than any debt that arises in the ordinary course of business or under the Continuing Arrangements.
- (9s) Except with respect to certain payments made pursuant to the Continuing Arrangements, payments made in connection with all continuing transactions between FSub 14 (or any member of the FSub 14 SAG) and FSub 21 (or any member of the FSub 21 SAG) following the FSub 21 Separation will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length.

- (9t) No two parties to the transaction are investment companies as defined in section 368(a)(2)(F)(iii) and (iv).
- (9u) FSub 14, FSub 21, and Sub 11 each will pay its own expenses, if any, incurred in connection with the FSub 21 Separation.
- (9v) No party to the FSub 21 Separation is under the jurisdiction of a court in a Title 11 or similar case within the meaning of section 368(a)(3)(A).
- (9w) For purposes of section 355(d), immediately after the FSub 21 Distribution, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of FSub 14 stock entitled to vote, or 50 percent or more of the total value of shares of all classes of FSub 14 stock, that was acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the FSub 21 Distribution.
- (9x) For purposes of section 355(d), immediately after the FSub 21 Distribution, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of FSub 21 stock entitled to vote, or 50 percent or more of the total value of shares of all classes of FSub 21 stock, that was either (i) acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the FSub 21 Distribution, or (ii) attributable to distributions on FSub 14 stock or securities that were acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the FSub 21 Distribution.
- (9y) The FSub 21 Separation is not part of a plan or series of related transactions (within the meaning of § 1.355-7) pursuant to which one or more persons will acquire, directly or indirectly, stock representing a 50-percent or greater interest (within the meaning of section 355(d)(4)) in FSub 14 or FSub 21 (including any predecessor of or successor to any such corporation).
- (9z) Immediately after the transaction (as defined in section 355(g)(4)), (i) no person will hold a 50-percent or greater interest (within the meaning of section 355(g)(3)) in FSub 14 or FSub 21, (ii) if any person holds a 50-percent or greater interest (within the meaning of section 355(g)(3)) in any disqualified investment corporation (within the meaning of section 355(g)(2)), such person will have held such interest in such corporation immediately before the transaction, or (iii) neither FSub 14 nor FSub 21 will be a disqualified investment corporation (within the meaning of section 355(g)(2)).

- (9aa) FSub 14's transfer of assets to FSub 21 in actual or deemed exchange for stock of FSub 21 in the FSub 21 Contribution is not an exchange described in sections 1.367(b)-4(b)(1)(i), -4(b)(2)(i), or -4(b)(3).
- (9bb) FSub 14 and FSub 21 will be controlled foreign corporations, within the meaning of section 957(a), immediately before and after the FSub 21 Distribution.
- (9cc) Sub 11 will be a section 1248 shareholder, within the meaning of § 1.367(b)-2(b), with respect to each of FSub 14 and FSub 21 immediately before and after the FSub 21 Distribution.
- (9dd) FSub 14 and FSub 21 will not be passive foreign investment companies, within the meaning of section 1297(a), immediately before or after the FSub 21 Distribution.
- (9ee) FSub 21 will not hold any United States real property interests, as defined in section 897(c)(1), immediately before or after the FSub 21 Distribution.

#### *Sub 15 Separation*

The following representations are made with respect to the Sub 15 Separation:

- (10a) Sub 11 will treat all members of its separate affiliated group (within the meaning of section 355(b)(3)(B)) (the "Sub 11 SAG") as one corporation in determining whether it satisfies the requirements of section 355(b)(2)(A) regarding the active conduct of a trade or business.
- (10b) Sub 15 will treat all members of its separate affiliated group (within the meaning of section 355(b)(3)(B)) (the "Sub 15 SAG") as one corporation in determining whether it satisfies the requirements of section 355(b)(2)(A) regarding the active conduct of a trade or business.
- (10c) Any indebtedness owed by Sub 15 (or any member of the Sub 15 SAG) to Sub 11 (or any member of the Sub 11 SAG) after the Sub 15 Separation will not constitute stock or securities.
- (10d) No part of the consideration to be distributed by Sub 11 in the Sub 15 Distribution will be received by Distributing as a creditor or an employee, or in any capacity other than that of a shareholder of Sub 11.
- (10e) The 5 years of financial information submitted with respect to FSub 14 Business 2 is representative of the present operation of FSub 14 Business 2,

and with regard to such business, there have been no substantial operational changes since the date of the last financial statements submitted.

- (10f) The 5 years of financial information submitted with respect to FSub 21 Business 1A is representative of the present operation of FSub 21 Business 1A, and with regard to such business, there have been no substantial operational changes since the date of the last financial statements submitted.
- (10g) Neither FSub 14 Business 2 nor control of an entity conducting FSub 14 Business 2 will have been acquired during the five-year period ending on the date of the Sub 15 Distribution in a transaction in which gain or loss was recognized (or treated as recognized for U.S. federal income tax purposes) in whole or in part, except for acquisitions that constitute expansions or that did not result in a change to the existing business of such a character as to constitute the acquisition of a new or different business (as contemplated by § 1.355-3(b)(3)(ii)) and acquisitions by one member of an affiliated group from another member of the affiliated group (as contemplated by § 1.355-3(b)(4)(iii)).
- (10h) Neither FSub 21 Business 1A nor control of an entity conducting FSub 21 Business 1A will have been acquired during the five-year period ending on the date of the Sub 15 Distribution in a transaction in which gain or loss was recognized (or treated as recognized for U.S. federal income tax purposes) in whole or in part, except for acquisitions that constitute expansions or that did not result in a change to the existing business of such a character as to constitute the acquisition of a new or different business (as contemplated by § 1.355-3(b)(3)(ii)) and acquisitions by one member of an affiliated group from another member of the affiliated group (as contemplated by § 1.355-3(b)(4)(iii)).
- (10i) Following the Sub 15 Separation, the Sub 11 SAG will continue the active conduct of FSub 14 Business 2 and the Sub 15 SAG will continue the active conduct of FSub 21 Business 1A, independently and with their separate employees, except as provided pursuant to the Continuing Arrangements.
- (10j) The Sub 15 Separation will be carried out for the corporate business purpose of facilitating the Separation. The Sub 15 Separation is motivated, in whole or substantial part, by this corporate business purpose.
- (10k) The Sub 15 Separation is not being used principally as a device for the distribution of the earnings and profits of Sub 11 or Sub 15 or both.
- (10l) The distribution of Sub 15 stock to Distributing in the Sub 15 Distribution and of FSub Securities to Distributing in the FSub Securities Distribution is with

- respect to Distributing's ownership of Sub 11 stock. Any money, property, or stock transferred by Sub 11 to Sub 15 in the Sub 15 Contribution will be exchanged (or deemed exchanged) solely for stock of Sub 15.
- (10m) The total fair market value of the assets that will be transferred by Sub 11 to Sub 15 in the Sub 15 Contribution will exceed the sum of: (i) the total liabilities (if any) that will be assumed (within the meaning of section 357(d)) by Sub 15 in connection with the Sub 15 Separation; (ii) the amount of liabilities (if any) owed to Sub 15 by Sub 11 that will be discharged or extinguished in connection with the Sub 15 Separation; and (iii) the amount of cash and the fair market value of the property (if any) (other than stock and securities permitted to be received under section 361(a) without the recognition of gain) that will be received by Sub 11 from Sub 15 in connection with the Sub 15 Separation. The fair market value of the assets of Sub 15 will exceed the amount of its liabilities immediately after the Sub 15 Contribution.
- (10n) The total adjusted basis of the assets that will be transferred by Sub 11 to Sub 15 in the Sub 15 Contribution will equal or exceed the sum of (i) any liabilities that will be assumed (within the meaning of section 357(d)) by Sub 15 (other than liabilities to which section 357(c)(3) applies) in connection with the Sub 15 Separation, and (ii) the total amount of any money and the fair market value of any other property (within the meaning of section 361(b)) that will be received by Sub 11 from Sub 15 and transferred to Sub 11's creditors and shareholders in connection with the reorganization.
- (10o) The liabilities, if any, that will be assumed (within the meaning of section 357(d)) by Sub 15 in connection with the Sub 15 Separation will have been incurred in the ordinary course of business and will be associated with the assets to be transferred.
- (10p) Except pursuant to the elimination or reduction of intercompany balances in connection with the Sub 15 Separation, Sub 11 will have neither accumulated its receivables nor made extraordinary payment of its payables in anticipation of the Sub 15 Separation.
- (10q) No intercorporate debt will exist between Sub 11 (or any member of the Sub 11 SAG) and Sub 15 (or any member of the Sub 15 SAG) at the time of, or subsequent to, the Sub 15 Separation, other than any debt that arises in the ordinary course of business or under the Continuing Arrangements.
- (10r) Immediately before the Sub 15 Distribution, items of income, gain, loss, deduction, and credit will be taken into account as required by the applicable intercompany transaction regulations (see §§ 1.1502-13 and 1.1502-14 as in effect before the publication of T.D. 8597, 1995-2 C.B. 147, and as currently

- in effect; § 1.1502-13 as published by T.D. 8597). At the time of the Sub 15 Distribution, there will not be an excess loss account in the stock of Sub 15. Further, any excess loss account in the stock of any member that is a direct or indirect subsidiary of Sub 15 will be included in income immediately before the members cease to be members of the Distributing Consolidated Group in the External Distribution to the extent required by regulations (see § 1.1502-19).
- (10s) Except with respect to certain payments made pursuant to the Continuing Arrangements, payments made in connection with all continuing transactions between Sub 11 (or any member of the Sub 11 SAG) and Sub 15 (or any member of the Sub 15 SAG) following the Sub 15 Separation will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length.
  - (10t) No two parties to the transaction are investment companies as defined in section 368(a)(2)(F)(iii) and (iv).
  - (10u) Sub 11, Sub 15, and Distributing each will pay its own expenses, if any, incurred in connection with the Sub 15 Separation.
  - (10v) No party to the Sub 15 Separation is under the jurisdiction of a court in a Title 11 or similar case within the meaning of section 368(a)(3)(A).
  - (10w) For purposes of section 355(d), immediately after the Sub 15 Distribution, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Sub 11 stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Sub 11 stock, that was acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the Sub 15 Distribution.
  - (10x) For purposes of section 355(d), immediately after the Sub 15 Distribution, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Sub 15 stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Sub 15 stock, that was either (i) acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the Sub 15 Distribution, or (ii) attributable to distributions on Sub 11 stock or securities that were acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the Sub 15 Distribution.

- (10y) The Sub 15 Separation is not part of a plan or series of related transactions (within the meaning of § 1.355-7) pursuant to which one or more persons will acquire, directly or indirectly, stock representing a 50-percent or greater interest (within the meaning of section 355(d)(4)) in Sub 11 or Sub 15 (including any predecessor of or successor to any such corporation).
- (10z) Immediately after the transaction (as defined in section 355(g)(4)), (i) no person will hold a 50-percent or greater interest (within the meaning of section 355(g)(3)) in Sub 11 or Sub 15, (ii) if any person holds a 50-percent or greater interest (within the meaning of section 355(g)(3)) in any disqualified investment corporation (within the meaning of section 355(g)(2)), such person will have held such interest in such corporation immediately before the transaction, or (iii) neither Sub 11 nor Sub 15 will be a disqualified investment corporation (within the meaning of section 355(g)(2)).

#### *Global Separation Transactions*

- (11a) Distributing will treat all members of its separate affiliated group (within the meaning of section 355(b)(3)(B)) (the “Distributing SAG”) as one corporation in determining whether it satisfies the requirements of section 355(b)(2)(A) regarding the active conduct of a trade or business.
- (11b) Controlled will treat all members of its separate affiliated group (within the meaning of section 355(b)(3)(B)) (the “Controlled SAG”) as one corporation in determining whether it satisfies the requirements of section 355(b)(2)(A) regarding the active conduct of a trade or business.
- (11c) Any indebtedness owed by Controlled (or any member of the Controlled SAG) to Distributing (or any member of the Distributing SAG) after the External Distribution will not constitute stock or securities.
- (11d) If the External Distribution is effected as an exchange of shares of Distributing common stock owned by its shareholders pursuant to one or more Exchange Offers, the fair market value of the Controlled stock (and cash in lieu of fractional shares) to be received by each Distributing shareholder in the Exchange Offers will be approximately equal to the fair market value of the Distributing common stock to be surrendered by such shareholder in the Exchange Offers.
- (11e) Except for any conversion of stock-based compensation arrangements of Distributing into stock-based compensation arrangements of Controlled, no part of the consideration to be distributed by Distributing in the External Distribution will be received by any shareholder of Distributing as a creditor or



- an employee, or in any capacity other than that of a shareholder of Distributing. Any shares of Controlled stock distributed in the External Distribution with respect to the conversion of stock-based compensation arrangements will not represent more than 20 percent of the Controlled stock outstanding immediately after the External Distribution.
- (11f) No part of the consideration to be distributed by Distributing in the Debt-for-Debt Exchange or the Committed Exchange will be received by any security holder as a shareholder or an employee or in any capacity other than that of a security holder of Distributing.
  - (11g) The 5 years of financial information submitted with respect to Business 2 is representative of the present operation of Business 2, and with regard to such business, there have been no substantial operational changes since the date of the last financial statements submitted.
  - (11h) The 5 years of financial information submitted with respect to Business 1A is representative of the present operation of Business 1A, and with regard to such business, there have been no substantial operational changes since the date of the last financial statements submitted.
  - (11i) Neither Business 2 nor control of an entity conducting Business 2 will have been acquired during the five-year period ending on the date of the One-Step Distribution or the Initial Exchange Offer, as applicable, in a transaction in which gain or loss was recognized (or treated as recognized for U.S. federal income tax purposes) in whole or in part, except for acquisitions that constitute expansions or that did not result in a change to the existing business of such a character as to constitute the acquisition of a new or different business (as contemplated by § 1.355-3(b)(3)(ii)) and acquisitions by one member of an affiliated group from another member of the affiliated group (as contemplated by § 1.355-3(b)(4)(iii)).
  - (11j) Neither Business 1A nor control of an entity conducting Business 1A will have been acquired during the five-year period ending on the date of the One-Step Distribution or the Initial Exchange Offer, as applicable, in a transaction in which gain or loss was recognized (or treated as recognized for U.S. federal income tax purposes) in whole or in part, except for acquisitions that constitute expansions or that did not result in a change to the existing business of such a character as to constitute the acquisition of a new or different business (as contemplated by § 1.355-3(b)(3)(ii)) and acquisitions by one member of an affiliated group from another member of the affiliated group (as contemplated by § 1.355-3(b)(4)(iii)).

- (11k) Following the External Distribution, the Distributing SAG will continue the active conduct of Business 2 and the Controlled SAG will continue the active conduct of Business 1A, independently and with their separate employees, except as provided pursuant to the Continuing Arrangements.
- (11l) The Separation will be carried out for the following corporate business purposes: (i) to more closely align the Distributing Worldwide Group's businesses with its evolving strategic direction; and (ii) to free Business 1 of capital and other constraints necessarily applicable to a business that no longer closely aligns with the Distributing Worldwide Group's strategic direction. The Separation is motivated, in whole or substantial part, by one or more of these corporate business purposes.
- (11m) The Separation is not being used principally as a device for the distribution of the earnings and profits of Distributing or Controlled or both.
- (11n) The distribution of Controlled stock to the shareholders of Distributing in the External Distribution is with respect to such shareholders' ownership of Distributing common stock. Any money, property, or stock transferred (or deemed transferred) by Distributing to Controlled in the Contribution will be exchanged (or deemed exchanged) solely for stock or securities of Controlled, the assumption of liabilities by Controlled, or Controlled Cash.
- (11o) The total fair market value of the assets that will be deemed to be transferred by Distributing to Controlled in the Contribution will exceed the sum of: (i) the total liabilities (if any) that will be assumed (within the meaning of section 357(d)) or deemed assumed by Controlled in connection with the Separation; (ii) the amount of liabilities (if any) owed to Controlled by Distributing that will be discharged or extinguished in connection with the Separation; and (iii) the amount of cash and the fair market value of the property (if any) (other than stock and securities permitted to be received under section 361(a) without the recognition of gain) that will be received by Distributing from Controlled (including the Controlled Cash) in connection with the Separation. The fair market value of the assets of Controlled will exceed the amount of its liabilities immediately after the Contribution.
- (11p) The total adjusted basis of the assets that will be deemed to be transferred by Distributing to Controlled in the Contribution will equal or exceed the sum of (i) any liabilities that will be assumed (within the meaning of section 357(d)) or deemed assumed by Controlled (other than liabilities to which section 357(c)(3) applies) in connection with the Separation, and (ii) the total amount of any money and the fair market value of any other property (within the meaning of section 361(b)) that will be received by Distributing from

Controlled (including the Controlled Cash) and transferred to Distributing's creditors and shareholders in connection with the reorganization.

- (11q) The liabilities, if any, that will be assumed (within the meaning of section 357(d)) or deemed assumed by Controlled in connection with the Separation will have been incurred in the ordinary course of business and will be associated with the assets to be transferred.
- (11r) The incurrence of the Global Assumed Deductible Liabilities will not have resulted in the creation of, or an increase in, the basis of any asset of Distributing or Controlled or the stock of Distributing or Controlled.
- (11s) The Global Assumed Deductible Liabilities are liabilities that have been accrued, as appropriate, for financial accounting purposes but that will not meet the timing requirements for a deduction by Distributing before the Contribution under Distributing's method of tax accounting. The Global Assumed Deductible Liabilities will meet the timing requirements for a deduction by Controlled after the Contribution under Controlled's method of tax accounting.
- (11t) The income tax liability for the taxable year in which investment credit property (including any building to which section 47(d) applies) is transferred will be adjusted pursuant to section 50(a)(1) or (a)(2) (or section 47, as in effect before amendment by Public Law 101-508, Title 11, 104 Stat. 1388, 536 (1990), if applicable) to reflect an early disposition of the property.
- (11u) Except pursuant to the elimination or reduction of intercompany balances in connection with the Separation, Distributing will have neither accumulated its receivables nor made extraordinary payment of its payables in anticipation of the Separation.
- (11v) No intercorporate debt will exist between Distributing (or any member of the Distributing SAG) and Controlled (or any member of the Controlled SAG) at the time of, or subsequent to, the Separation, other than any debt that arises in the ordinary course of business or under the Continuing Arrangements.
- (11w) Immediately before Controlled and other members of the Distributing Consolidated Group cease to be members in the External Distribution, items of income, gain, loss, deduction, and credit will be taken into account as required by the applicable intercompany transaction regulations (see §§ 1.1502-13 and 1.1502-14 as in effect before the publication of T.D. 8597, 1995-2 C.B. 147, and as currently in effect; § 1.1502-13 as published by T.D. 8597). Further, any excess loss account that Distributing may have in the stock of Controlled (or that a member may have in the stock of another

- member that is required to be taken into account under § 1.1502-19) will be included in income immediately before Controlled (and the other members of the Distributing Consolidated Group) cease to be members in the External Distribution to the extent required by regulations (see § 1.1502-19).
- (11x) Except with respect to certain payments made pursuant to the Continuing Arrangements, payments made in connection with all continuing transactions between Distributing (or any member of the Distributing SAG) and Controlled (or any member of the Controlled SAG) following the Separation will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length.
  - (11y) No two parties to the transaction are investment companies as defined in section 368(a)(2)(F)(iii) and (iv).
  - (11z) Distributing, Controlled, and their respective shareholders will pay their own expenses, if any, incurred in connection with the Separation.
  - (11aa) No party to the Separation is under the jurisdiction of a court in a Title 11 or similar case within the meaning of section 368(a)(3)(A).
  - (11bb) For purposes of section 355(d), immediately after the External Distribution, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Distributing stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Distributing stock, that was acquired by purchase (as defined in section 355(d)(5) and (8)) (a) during the 5-year period (determined after applying section 355(d)(6)) ending on the date of the External Distribution if the External Distribution is structured as a One-Step Distribution, or (b) during the period (determined after applying section 355(d)(6)) beginning 5 years before the date of the Initial Exchange Offer and ending on the date on which the External Distribution is completed if the External Distribution is structured as Exchange Offers.
  - (11cc) For purposes of section 355(d), immediately after the External Distribution, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Controlled stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Controlled stock, that was either (i) acquired by purchase (as defined in section 355(d)(5) and (8)) (a) during the 5-year period (determined after applying section 355(d)(6)) ending on the date of the External Distribution if the External Distribution is structured as a One-Step Distribution, or (b) during the period (determined after applying section 355(d)(6)) beginning 5 years before the date of the Initial Exchange Offer and

- ending on the date on which the External Distribution is completed if the External Distribution is structured as Exchange Offers, or (ii) attributable to distributions on Distributing stock or securities that were acquired by purchase (as defined in section 355(d)(5) and (8)) (a) during the 5-year period (determined after applying section 355(d)(6)) ending on the date of the External Distribution if the External Distribution is structured as a One-Step Distribution, or (b) during the period (determined after applying section 355(d)(6)) beginning 5 years before the date of the Initial Exchange Offer and ending on the date on which the External Distribution is completed if the External Distribution is structured as Exchange Offers.
- (11dd) The External Distribution is not part of a plan or series of related transactions (within the meaning of § 1.355-7) pursuant to which one or more persons will acquire, directly or indirectly, stock representing a 50-percent or greater interest (within the meaning of section 355(d)(4)) in Distributing or Controlled (including any predecessor of or successor to any such corporation).
- (11ee) Immediately after the transaction (as defined in section 355(g)(4)), (i) no person will hold a 50-percent or greater interest (within the meaning of section 355(g)(3)) in Distributing or Controlled, (ii) if any person holds a 50-percent or greater interest (within the meaning of section 355(g)(3)) in any disqualified investment corporation (within the meaning of section 355(g)(2)), such person will have held such interest in such corporation immediately before the transaction, or (iii) neither Distributing nor Controlled will be a disqualified investment corporation (within the meaning of section 355(g)(2)).
- (11ff) The sum of (i) the amount of Distributing Date 1 Debt exchanged for Controlled Securities in the Debt-for-Debt Exchange or exchanged for Controlled Loans in the Committed Exchange, and (ii) the amount of other Distributing debt repaid with the Controlled Cash, will not exceed the weighted quarterly average of all Distributing debt owed to unrelated third parties for the 12-month period ending on the day before Distributing's Board of Directors first discussed the potential separation of Business 1 from the Retained Businesses.
- (11gg) The Distributing Date 1 Debt was not incurred in connection with, or in anticipation of, the Proposed Transaction.
- (11hh) The Controlled Securities and the Controlled Loans will constitute "securities" within the meaning of section 361(a).
- (11ii) The receipt by Distributing shareholders of cash in lieu of fractional shares of Controlled stock, if any, is solely for the purpose of avoiding the expense and inconvenience to Controlled of issuing and maintaining fractional shares and

will not represent separately bargained for consideration. The total cash that will be paid in the External Distribution to Distributing shareholders in lieu of fractional shares of Controlled stock will not exceed  $\frac{1}{2}$  percent of the total consideration that will be distributed in the External Distribution. Any fractional share interests of a Distributing shareholder will be aggregated, and no Distributing shareholder of record will receive cash in an amount equal to or greater than the value of one full share of Controlled stock.

- (11jj) Pursuant to the plan of reorganization, Distributing will use all of the Controlled Cash to repay its existing debt (including interest or fees thereon, as well as borrowings under a revolving credit facility or other short-term debt facility that may be incurred prior to the Distribution, commercial paper, and ordinary course liabilities); to pay dividends (including regular quarterly dividends) to its shareholders; and/or to repurchase shares of Distributing stock, in all cases within 9 months following the Controlled Cash Transfer.

### Rulings

Based solely on the information submitted and the representations set forth above, and provided that (i) the distribution of stock of any “controlled corporation” to the shareholder(s) of any “distributing corporation” (each within the meaning of section 355(a)(1)(A)) in an Internal Distribution or the External Distribution is with respect to their ownership of the distributing corporation’s stock, (ii) any money, property, or stock transferred (or deemed transferred) by a distributing corporation to a controlled corporation in any of the Contributions is exchanged solely for stock or securities in the controlled corporation, the assumption of liabilities, or (in the case of the Contribution) Controlled Cash, and (iii) any other transfer of stock, money, or property between any distributing corporation, any shareholder thereof, or any controlled corporation and any person related to any distributing corporation, any shareholder thereof, or any controlled corporation is respected as a separate transaction, we rule as follows:

#### *Sub 6 Conversion*

- (1a) For U.S. federal income tax purposes, the Sub 6 Conversion will be treated as a distribution in complete liquidation of Sub 6 under section 332. Section 332(b) and § 1.332-2(d).
- (1b) Sub 3 will recognize no gain or loss upon the Sub 6 Conversion. Section 332(a).
- (1c) Sub 6 will recognize no gain or loss upon the Sub 6 Conversion. Section 337(a).

- (1d) Sub 3's basis in each asset deemed received in the Sub 6 Conversion will equal the basis of that asset in the hands of Sub 6 immediately before the Sub 6 Conversion. Section 334(b)(1).
- (1e) Sub 3's holding period in each asset deemed received in the Sub 6 Conversion will include the period during which Sub 6 held such asset. Section 1223(2).
- (1f) Sub 3 will succeed to and take into account, as of the close of the date of the Sub 6 Conversion, the items of Sub 6 described in section 381(c), subject to the conditions and limitations specified in sections 381, 382, 383, and 384 and the regulations thereunder, as applicable. Sections 381(a)(1) and § 1.381(a)-1.
- (1g) Except to the extent Sub 6's earnings and profits are reflected in Sub 3's earnings and profits, Sub 3 will succeed to and take into account the earnings and profits, or deficit in earnings and profits, of Sub 6 as of the close of the date of the Sub 6 Conversion. Section 381(c)(2)(A); §§ 1.381(c)(2)-1 and 1.1502-33(a)(2). Any deficit in the earnings and profits of Sub 6 will be used only to offset earnings and profits accumulated after the date of the Sub 6 Conversion. Section 381(c)(2)(B).
- (1h) The contribution of the 20 percent partnership interest in PS 3 to Sub 8 in the First Sub 8 Contribution and the contribution of Sub 1 to Controlled in the Contribution will not cause the Sub 6 Conversion to fail to qualify as a tax-free liquidation under sections 332(a) and 337(a).

#### *First Sub 8 Separation*

- (2a) The First Sub 8 Contribution, together with the First Sub 8 Distribution, will be a reorganization within the meaning of section 368(a)(1)(D). Sub 3 and Sub 8 each will be "a party to a reorganization" within the meaning of section 368(b).
- (2b) Sub 3 will recognize no gain or loss upon the First Sub 8 Contribution. Section 361(a).
- (2c) Sub 8 will recognize no gain or loss upon the First Sub 8 Contribution. Section 1032(a).
- (2d) Sub 8's basis in each asset received in the First Sub 8 Contribution will equal the basis of that asset in the hands of Sub 3 immediately before the First Sub 8 Contribution. Section 362(b).

- (2e) Sub 8's holding period in each asset received in the First Sub 8 Contribution will include the period during which such asset was held by Sub 3. Section 1223(2).
- (2f) Sub 3 will recognize no gain or loss upon the First Sub 8 Distribution. Section 361(c).
- (2g) Sub 1 will recognize no gain or loss (and no amount will be includible in its income) upon the First Sub 8 Distribution. Section 355(a)(1).
- (2h) If the First Sub 8 Distribution is made as a pro rata distribution with respect to the stock of Sub 3 owned by Sub 1, the basis of the Sub 8 stock and the Sub 3 stock in the hands of Sub 1 immediately after the First Sub 8 Distribution will equal the basis of the Sub 3 stock owned by Sub 1 immediately before the First Sub 8 Distribution, allocated between the stock of Sub 3 and Sub 8 in proportion to the fair market value of each in accordance with § 1.358-2(a)(2)(iv). Section 358(a), (b)(2), and (c). If, instead, the First Sub 8 Distribution is made as an exchange of shares of Sub 8 stock for specified shares of Sub 3 stock, the basis of the Sub 8 stock in the hands of Sub 1 immediately after the First Sub 8 Distribution will equal the basis of the Sub 3 stock exchanged therefor, allocated in accordance with § 1.358-2(a)(2)(i). Section 358(a), (b)(2), and (c).
- (2i) Sub 1's holding period in the Sub 8 stock received in the First Sub 8 Distribution will include the holding period of the Sub 3 stock exchanged therefor or with respect to which the First Sub 8 Distribution is made, provided that Sub 1 holds the Sub 3 stock as a capital asset on the date of the First Sub 8 Distribution. Section 1223(1).
- (2j) Sub 3's earnings and profits will be allocated between Sub 3 and Sub 8 in accordance with section 312(h) and §§ 1.312-10(a) and 1.1502-33(f)(2).
- (2k) Except for purposes of section 355(g), any payments made between Sub 3 (or its affiliates) and Sub 8 (or its affiliates) pursuant to the Continuing Arrangements with respect to liabilities, indemnities, or other obligations that (i) have arisen or will arise for a taxable period ending on or before the First Sub 8 Distribution or for a taxable period beginning before but ending after the First Sub 8 Distribution, and (ii) will not become fixed and ascertainable until after the First Sub 8 Distribution, will be treated for U.S. federal income tax purposes as occurring immediately before the First Sub 8 Distribution. Cf. *Arrowsmith v. Commissioner*, 344 U.S. 6 (1952); Rev. Rul. 83-73, 1983-1 C.B. 84.

### *Second Sub 8 Separation*



- (3a) The Second Sub 8 Contribution, together with the Second Sub 8 Distribution, will be a reorganization within the meaning of section 368(a)(1)(D). Sub 1 and Sub 8 each will be “a party to a reorganization” within the meaning of section 368(b).
- (3b) Sub 1 will recognize no gain or loss upon the Second Sub 8 Contribution. Sections 357(a) and 361(a).
- (3c) Sub 8 will recognize no gain or loss upon the Second Sub 8 Contribution. Section 1032(a).
- (3d) Sub 8’s basis in each asset received in the Second Sub 8 Contribution will equal the basis of that asset in the hands of Sub 1 immediately before the Second Sub 8 Contribution. Section 362(b).
- (3e) Sub 8’s holding period in each asset received in the Second Sub 8 Contribution will include the period during which such asset was held by Sub 1. Section 1223(2).
- (3f) Sub 1 will recognize no gain or loss upon the Second Sub 8 Distribution. Section 361(c).
- (3g) Distributing will recognize no gain or loss (and no amount will be includible in its income) upon the Second Sub 8 Distribution. Section 355(a)(1).
- (3h) If the Second Sub 8 Distribution is made as a pro rata distribution with respect to the stock of Sub 1 owned by Distributing, the basis of the Sub 8 stock and the Sub 1 stock in the hands of Distributing immediately after the Second Sub 8 Distribution will equal the basis of the Sub 1 stock owned by Distributing immediately before the Second Sub 8 Distribution, allocated between the stock of Sub 1 and Sub 8 in proportion to the fair market value of each in accordance with § 1.358-2(a)(2)(iv). Section 358(a), (b)(2), and (c). If, instead, the Second Sub 8 Distribution is made as an exchange of shares of Sub 8 stock for specified shares of Sub 1 stock, the basis of the Sub 8 stock in the hands of Distributing immediately after the Second Sub 8 Distribution will equal the basis of the Sub 1 stock exchanged therefor, allocated in accordance with § 1.358-2(a)(2)(i). Section 358(a), (b)(2), and (c).
- (3i) Distributing’s holding period in the Sub 8 stock received in the Second Sub 8 Distribution will include the holding period of the Sub 1 stock exchanged therefor or with respect to which the Second Sub 8 Distribution is made, provided that Distributing holds the Sub 1 stock as a capital asset on the date of the Second Sub 8 Distribution. Section 1223(1).

- (3j) Sub 1's earnings and profits will be allocated between Sub 1 and Sub 8 in accordance with section 312(h) and §§ 1.312-10(a) and 1.1502-33(f)(2).
- (3k) Except for purposes of section 355(g), any payments made between Sub 1 (or its affiliates) and Sub 8 (or its affiliates) pursuant to the Continuing Arrangements with respect to liabilities, indemnities, or other obligations that (i) have arisen or will arise for a taxable period ending on or before the Second Sub 8 Distribution or for a taxable period beginning before but ending after the Second Sub 8 Distribution, and (ii) will not become fixed and ascertainable until after the Second Sub 8 Distribution, will be treated for U.S. federal income tax purposes as occurring immediately before the Second Sub 8 Distribution. Cf. *Arrowsmith v. Commissioner*, 344 U.S. 6 (1952); Rev. Rul. 83-73, 1983-1 C.B. 84.

#### *PS 4 Separation*

- (4a) The PS 4 Contribution, together with the PS 4 Distribution, will be a reorganization within the meaning of section 368(a)(1)(D). FSub 4 and PS 4 each will be "a party to a reorganization" within the meaning of section 368(b).
- (4b) FSub 4 will recognize no gain or loss upon the PS 4 Contribution. Section 361(a).
- (4c) PS 4 will recognize no gain or loss upon the PS 4 Contribution. Section 1032(a).
- (4d) PS 4's basis in each asset received or deemed received in the PS 4 Contribution will equal the basis of that asset in the hands of FSub 4 immediately before the PS 4 Contribution. Section 362(b).
- (4e) PS 4's holding period in each asset received or deemed received in the PS 4 Contribution will include the period during which such asset was held by FSub 4. Section 1223(2).
- (4f) FSub 4 will recognize no gain or loss upon the PS 4 Distribution. Section 361(c).
- (4g) Sub 12 will recognize no gain or loss (and no amount will be includible in its income) upon the PS 4 Distribution. Section 355(a)(1).
- (4h) If the PS 4 Distribution is made as a pro rata distribution with respect to the stock of FSub 4 owned by Sub 12, the basis of the PS 4 stock and the FSub 4 stock in the hands of Sub 12 immediately after the PS 4 Distribution will equal

the basis of the FSub 4 stock owned by Sub 12 immediately before the PS 4 Distribution, allocated between the stock of FSub 4 and PS 4 in proportion to the fair market value of each in accordance with § 1.358-2(a)(2)(iv). Section 358(a), (b)(2), and (c). If, instead, the PS 4 Distribution is made as an exchange of shares of PS 4 stock for specified shares of FSub 4 stock, the basis of the PS 4 stock in the hands of Sub 12 immediately after the PS 4 Distribution will equal the basis of the FSub 4 stock exchanged therefor, allocated in accordance with § 1.358-2(a)(2)(i). Section 358(a), (b)(2), and (c).

- (4i) Sub 12's holding period in the PS 4 stock received in the PS 4 Distribution will include the holding period of the FSub 4 stock exchanged therefor or with respect to which the PS 4 Distribution is made, provided that Sub 12 holds the FSub 4 stock as a capital asset on the date of the PS 4 Distribution. Section 1223(1).
- (4j) FSub 4's earnings and profits will be allocated between FSub 4 and PS 4 in accordance with section 312(h) and § 1.312-10(a).
- (4k) Except for purposes of section 355(g), any payments made between FSub 4 (or its affiliates) and PS 4 (or its affiliates) pursuant to the Continuing Arrangements with respect to liabilities, indemnities, or other obligations that (i) have arisen or will arise for a taxable period ending on or before the Distribution or for a taxable period beginning before but ending after the PS 4 Distribution, and (ii) will not become fixed and ascertainable until after the PS 4 Distribution, will be treated for U.S. federal income tax purposes as occurring immediately before the PS 4 Distribution. Cf. *Arrowsmith v. Commissioner*, 344 U.S. 6 (1952); Rev. Rul. 83-73, 1983-1 C.B. 84.

#### *Sub 13 Separation*

- (5a) The Sub 13 Contribution, together with the Sub 13 Distribution, will be a reorganization within the meaning of section 368(a)(1)(D). Sub 12 and Sub 13 each will be "a party to a reorganization" within the meaning of section 368(b).
- (5b) Sub 12 will recognize no gain or loss upon the Sub 13 Contribution. Section 361(a).
- (5c) Sub 13 will recognize no gain or loss upon the Sub 13 Contribution. Section 1032(a).

- (5d) Sub 13's basis in each asset received in the Sub 13 Contribution will equal the basis of that asset in the hands of Sub 12 immediately before the Sub 13 Contribution. Section 362(b).
- (5e) Sub 13's holding period in each asset received in the Sub 13 Contribution will include the period during which such asset was held by Sub 12. Section 1223(2).
- (5f) Sub 12 will recognize no gain or loss upon the Sub 13 Distribution. Section 361(c).
- (5g) Distributing will recognize no gain or loss (and no amount will be includible in its income) upon the Sub 13 Distribution. Section 355(a)(1).
- (5h) If the Sub 13 Distribution is made as a pro rata distribution with respect to the stock of Sub 12 owned by Distributing, the basis of the Sub 13 stock and the Sub 12 stock in the hands of Distributing immediately after the Sub 13 Distribution will equal the basis of the Sub 12 stock owned by Distributing immediately before the Sub 13 Distribution, allocated between the stock of Sub 12 and Sub 13 in proportion to the fair market value of each in accordance with § 1.358-2(a)(2)(iv). Section 358(a), (b)(2), and (c). If, instead, the Sub 13 Distribution is made as an exchange of shares of Sub 13 stock for specified shares of Sub 12 stock, the basis of the Sub 13 stock in the hands of Distributing immediately after the Sub 13 Distribution will equal the basis of the Sub 12 stock exchanged therefor, allocated in accordance with § 1.358-2(a)(2)(i). Section 358(a), (b)(2), and (c).
- (5i) Distributing's holding period in the Sub 13 stock received in the Sub 13 Distribution will include the holding period of the Sub 12 stock exchanged therefor or with respect to which the Sub 13 Distribution is made, provided that Distributing holds the Sub 12 stock as a capital asset on the date of the Sub 13 Distribution. Section 1223(1).
- (5j) Sub 12's earnings and profits will be allocated between Sub 12 and Sub 13 in accordance with section 312(h) and §§ 1.312-10(a) and 1.1502-33(f)(2).
- (5k) Except for purposes of section 355(g), any payments made between Sub 12 (or its affiliates) and Sub 13 (or its affiliates) pursuant to the Continuing Arrangements with respect to liabilities, indemnities, or other obligations that (i) have arisen or will arise for a taxable period ending on or before the Sub 13 Distribution or for a taxable period beginning before but ending after the Sub 13 Distribution, and (ii) will not become fixed and ascertainable until after the Sub 13 Distribution, will be treated for U.S. federal income tax purposes

as occurring immediately before the Sub 13 Distribution. Cf. *Arrowsmith v. Commissioner*, 344 U.S. 6 (1952); Rev. Rul. 83-73, 1983-1 C.B. 84.

*FSub 20 Separation*

- (6a) For U.S. federal income tax purposes, the FSub 20 Separation will be treated as if (i) FSub 13 formed FSub 20 and contributed all of FSub 13's assets associated with Business 1 to FSub 20 in exchange for all of the stock of FSub 20 and FSub 20's assumption of FSub 13's liabilities associated with Business 1 in Country G (the "Deemed FSub 20 Contribution"), and then immediately thereafter (ii) FSub 13 distributed all of the stock of FSub 20 to FSub 11 in exchange for shares of common and preferred stock of FSub 13 owned by FSub 11 (the "Deemed FSub 20 Distribution"). Cf. Rev. Rul. 77-191, 1977-1 C.B. 94; Rev. Rul. 57-311, 1957-2 C.B. 243.
- (6b) The Deemed FSub 20 Contribution, together with the Deemed FSub 20 Distribution, will be a reorganization within the meaning of section 368(a)(1)(D). FSub 13 and FSub 20 each will be "a party to a reorganization" within the meaning of section 368(b).
- (6c) FSub 13 will recognize no gain or loss upon the Deemed FSub 20 Contribution. Sections 357(a) and 361(a).
- (6d) FSub 20 will recognize no gain or loss upon the Deemed FSub 20 Contribution. Section 1032(a).
- (6e) FSub 20's basis in each asset received in the Deemed FSub 20 Contribution will equal the basis of that asset in the hands of FSub 13 immediately before the Deemed FSub 20 Contribution. Section 362(b).
- (6f) FSub 20's holding period in each asset received in the Deemed FSub 20 Contribution will include the period during which such asset was held by FSub 13. Section 1223(2).
- (6g) FSub 13 will recognize no gain or loss upon the Deemed FSub 20 Distribution. Section 361(c).
- (6h) FSub 11 will recognize no gain or loss (and no amount will be includible in its income) upon the Deemed FSub 20 Distribution. Section 355(a)(1).
- (6i) The basis of the FSub 20 stock in the hands of FSub 11 immediately after the Deemed FSub 20 Distribution will equal the basis of the FSub 13 stock deemed exchanged therefor, allocated in accordance with § 1.358-2(a)(2)(i). Section 358(a), (b)(2), and (c).

- (6j) FSub 11's holding period in the FSub 20 stock deemed received in the Deemed FSub 20 Distribution will include the holding period of the FSub 13 stock deemed exchanged therefor, provided that FSub 11 holds the FSub 13 stock as a capital asset on the date of the Deemed FSub 20 Distribution. Section 1223(1).
- (6k) FSub 13's earnings and profits will be allocated between FSub 13 and FSub 20 in accordance with section 312(h) and § 1.312-10(a).
- (6l) Except for purposes of section 355(g), any payments made between FSub 13 (or its affiliates) and FSub 20 (or its affiliates) pursuant to the Continuing Arrangements with respect to liabilities, indemnities, or other obligations that (i) have arisen or will arise for a taxable period ending on or before the Deemed FSub 20 Distribution or for a taxable period beginning before but ending after the Deemed FSub 20 Distribution, and (ii) will not become fixed and ascertainable until after the Deemed FSub 20 Distribution, will be treated for U.S. federal income tax purposes as occurring immediately before the Deemed FSub 20 Distribution. Cf. *Arrowsmith v. Commissioner*, 344 U.S. 6 (1952); Rev. Rul. 83-73, 1983-1 C.B. 84.

#### *FSub 19 Separation*

- (7a) The FSub 19 Contribution, together with the FSub 19 Distribution, will be a reorganization within the meaning of section 368(a)(1)(D). FSub 11 and FSub 19 each will be "a party to a reorganization" within the meaning of section 368(b).
- (7b) FSub 11 will recognize no gain or loss upon the FSub 19 Contribution. Section 361(a).
- (7c) FSub 19 will recognize no gain or loss upon the FSub 19 Contribution. Section 1032(a).
- (7d) FSub 19's basis in each asset received in the FSub 19 Contribution will equal the basis of that asset in the hands of FSub 11 immediately before the FSub 19 Contribution. Section 362(b).
- (7e) FSub 19's holding period in each asset received in the FSub 19 Contribution will include the period during which such asset was held by FSub 11. Section 1223(2).
- (7f) FSub 11 will recognize no gain or loss upon the FSub 19 Distribution. Section 361(c).

- (7g) Sub 10 will recognize no gain or loss (and no amount will be includible in its income) upon the FSub 19 Distribution. Section 355(a)(1).
- (7h) If the FSub 19 Distribution is made as a pro rata distribution with respect to the stock of FSub 11 owned by Sub 10, the basis of the FSub 19 stock and the FSub 11 stock in the hands of Sub 10 immediately after the FSub 19 Distribution will equal the basis of the FSub 11 stock owned by Sub 10 immediately before the FSub 19 Distribution, allocated between the stock of FSub 11 and FSub 19 in proportion to the fair market value of each in accordance with § 1.358-2(a)(2)(iv). Section 358(a), (b)(2), and (c). If, instead, the FSub 19 Distribution is made as an exchange of shares of FSub 19 stock for specified shares of FSub 11 stock, the basis of the FSub 19 stock in the hands of Sub 10 immediately after the FSub 19 Distribution will equal the basis of the FSub 11 stock exchanged therefor, allocated in accordance with § 1.358-2(a)(2)(i). Section 358(a), (b)(2), and (c).
- (7i) Sub 10's holding period in the FSub 19 stock received in the FSub 19 Distribution will include the holding period of the FSub 11 stock exchanged therefor or with respect to which the FSub 19 Distribution is made, provided that Sub 10 holds the FSub 11 stock as a capital asset on the date of the FSub 19 Distribution. Section 1223(1).
- (7j) FSub 11's earnings and profits will be allocated between FSub 11 and FSub 19 in accordance with section 312(h) and § 1.312-10(a).
- (7k) Except for purposes of section 355(g), any payments made between FSub 11 (or its affiliates) and FSub 19 (or its affiliates) pursuant to the Continuing Arrangements with respect to liabilities, indemnities, or other obligations that (i) have arisen or will arise for a taxable period ending on or before the FSub 19 Distribution or for a taxable period beginning before but ending after the FSub 19 Distribution, and (ii) will not become fixed and ascertainable until after the FSub 19 Distribution, will be treated for U.S. federal income tax purposes as occurring immediately before the FSub 19 Distribution. Cf. *Arrowsmith v. Commissioner*, 344 U.S. 6 (1952); Rev. Rul. 83-73, 1983-1 C.B. 84.
- (7l) The qualification of the FSub 19 Separation under section 368 and the FSub 19 Distribution under section 355 will not be affected by a subsequent transfer of FSub 19 stock pursuant to section 351 that occurs in connection with the establishment of a global holding company structure for the foreign members of the Controlled SAG following the Proposed Transaction. Cf. Rev. Rul. 2003-79, 2003-2 C.B. 80; Rev. Rul. 98-27, 1998-1 C.B. 1159.

*Sub 14 Separation*

- (8a) The Sub 14 Contribution, together with the Sub 14 Distribution, will be a reorganization within the meaning of section 368(a)(1)(D). Sub 10 and Sub 14 each will be “a party to a reorganization” within the meaning of section 368(b).
- (8b) Sub 10 will recognize no gain or loss upon the Sub 14 Contribution. Section 361(a).
- (8c) Sub 14 will recognize no gain or loss upon the Sub 14 Contribution. Section 1032(a).
- (8d) Sub 14’s basis in each asset received in the Sub 14 Contribution will equal the basis of that asset in the hands of Sub 10 immediately before the Sub 14 Contribution. Section 362(b).
- (8e) Sub 14’s holding period in each asset received in the Sub 14 Contribution will include the period during which such asset was held by Sub 10. Section 1223(2).
- (8f) Sub 10 will recognize no gain or loss upon the Sub 14 Distribution. Section 361(c).
- (8g) Distributing will recognize no gain or loss (and no amount will be includible in its income) upon the Sub 14 Distribution. Section 355(a)(1).
- (8h) If the Sub 14 Distribution is made as a pro rata distribution with respect to the stock of Sub 10 owned by Distributing, the basis of the Sub 14 stock and the Sub 10 stock in the hands of Distributing immediately after the Sub 14 Distribution will equal the basis of the Sub 10 stock owned by Distributing immediately before the Sub 14 Distribution, allocated between the stock of Sub 10 and Sub 14 in proportion to the fair market value of each in accordance with § 1.358-2(a)(2)(iv). Section 358(a), (b)(2), and (c). If, instead, the Sub 14 Distribution is made as an exchange of shares of Sub 14 stock for specified shares of Sub 10 stock, the basis of the Sub 14 stock in the hands of Distributing immediately after the Sub 14 Distribution will equal the basis of the Sub 10 stock exchanged therefor, allocated in accordance with § 1.358-2(a)(2)(i). Section 358(a), (b)(2), and (c).
- (8i) Distributing’s holding period in the Sub 14 stock received in the Sub 14 Distribution will include the holding period of the Sub 10 stock exchanged therefor or with respect to which the Sub 14 Distribution is made, provided



- that Distributing holds the Sub 10 stock as a capital asset on the date of the Sub 14 Distribution. Section 1223(1).
- (8j) Sub 10's earnings and profits will be allocated between Sub 10 and Sub 14 in accordance with section 312(h) and §§ 1.312-10(a) and 1.1502-33(f)(2).
- (8k) Except for purposes of section 355(g), any payments made between Sub 10 (or its affiliates) and Sub 14 (or its affiliates) pursuant to the Continuing Arrangements with respect to liabilities, indemnities, or other obligations that (i) have arisen or will arise for a taxable period ending on or before the Sub 14 Distribution or for a taxable period beginning before but ending after the Sub 14 Distribution, and (ii) will not become fixed and ascertainable until after the Sub 14 Distribution, will be treated for U.S. federal income tax purposes as occurring immediately before the Sub 14 Distribution. Cf. *Arrowsmith v. Commissioner*, 344 U.S. 6 (1952); Rev. Rul. 83-73, 1983-1 C.B. 84.
- (8l) The qualification of the Sub 14 Separation under section 368 and the Sub 14 Distribution under section 355 will not be affected by the merger of Sub 14 with and into Sub 15 pursuant to the Mergers. Cf. Rev. Rul. 2003-79, 2003-2 C.B. 80; Rev. Rul. 98-27, 1998-1 C.B. 1159.

#### *FSub 21 Separation*

- (9a) For U.S. federal income tax purposes, the transfers of the FSub 11 Notes will be disregarded, and the FSub 21 Separation will be treated as if (i) FSub 14 formed FSub 21 and contributed all of FSub 14's assets associated with Business 1 and cash to FSub 21 in exchange for all of the stock of FSub 21 and FSub 21's assumption of the liabilities associated with Business 1 in Country H (the "Deemed FSub 21 Contribution"), and then immediately thereafter (ii) FSub 14 distributed all of the stock of FSub 21 to Sub 11 (the "Deemed FSub 21 Distribution") as either a pro rata distribution on the FSub 14 stock owned by Sub 11 or a non-pro rata distribution in exchange for specifically identified shares of FSub 14 stock owned by Sub 11. Cf. Rev. Rul. 83-142, 1983-2 C.B. 68; Rev. Rul. 77-191, 1977-1 C.B. 94; Rev. Rul. 57-311, 1957-2 C.B. 243.
- (9b) The Deemed FSub 21 Contribution, together with the Deemed FSub 21 Distribution (the "Deemed FSub 21 Separation"), will be a reorganization within the meaning of section 368(a)(1)(D). FSub 14 and FSub 21 each will be "a party to a reorganization" within the meaning of section 368(b).
- (9c) FSub 14 will recognize no gain or loss upon the Deemed FSub 21 Contribution. Sections 357(a) and 361(a).

- (9d) FSub 21 will recognize no gain or loss upon the Deemed FSub 21 Contribution. Section 1032(a).
- (9e) FSub 21's basis in each asset received in the Deemed FSub 21 Contribution will equal the basis of that asset in the hands of FSub 14 immediately before the Deemed FSub 21 Contribution. Section 362(b).
- (9f) FSub 21's holding period in each asset received in the Deemed FSub 21 Contribution will include the period during which such asset was held by FSub 14. Section 1223(2).
- (9g) FSub 14 will recognize no gain or loss upon the Deemed FSub 21 Distribution. Section 361(c).
- (9h) Sub 11 will recognize no gain or loss (and no amount will be includible in its income) upon the Deemed FSub 21 Distribution. Section 355(a)(1).
- (9i) If the FSub 21 Distribution is made as a pro rata distribution with respect to the stock of FSub 14 owned by Sub 11, the basis of the FSub 21 stock and the FSub 14 stock in the hands of Sub 11 immediately after the Deemed FSub 21 Distribution will equal the basis of the FSub 14 stock owned by Sub 11 immediately before the Deemed FSub 21 Distribution, allocated between the stock of FSub 14 and FSub 21 in proportion to the fair market value of each in accordance with § 1.358-2(a)(2)(iv). Section 358(a), (b)(2), and (c). If, instead, the FSub 21 Distribution is made as an exchange for specified shares of FSub 14 stock owned by Sub 11, the basis of the FSub 21 stock in the hands of Sub 11 immediately after the Deemed FSub 21 Distribution will equal the basis of the FSub 14 stock deemed exchanged therefor, allocated in accordance with § 1.358-2(a)(2)(i). Section 358(a), (b)(2), and (c).
- (9j) Sub 11's holding period in the FSub 21 stock deemed received in the Deemed FSub 21 Distribution will include the holding period of the FSub 14 stock exchanged therefor or with respect to which the Deemed FSub 21 Distribution is made, provided that Sub 11 holds the FSub 14 stock as a capital asset on the date of the Deemed FSub 21 Distribution. Section 1223(1).
- (9k) FSub 14's earnings and profits will be allocated between FSub 14 and FSub 21 in accordance with section 312(h) and § 1.312-10(a).
- (9l) Except for purposes of section 355(g), any payments made between FSub 14 (or its affiliates) and FSub 21 (or its affiliates) pursuant to the Continuing Arrangements with respect to liabilities, indemnities, or other obligations that (i) have arisen or will arise for a taxable period ending on or before the

Deemed FSub 21 Distribution or for a taxable period beginning before but ending after the Deemed FSub 21 Distribution, and (ii) will not become fixed and ascertainable until after the Deemed FSub 21 Distribution, will be treated for U.S. federal income tax purposes as occurring immediately before the Deemed FSub 21 Distribution. Cf. *Arrowsmith v. Commissioner*, 344 U.S. 6 (1952); Rev. Rul. 83-73, 1983-1 C.B. 84.

- (9m) The qualification of the Deemed FSub 21 Separation under section 368 and the Deemed FSub 21 Distribution under section 355 will not be affected by any subsequent transfer of FSub 21 stock pursuant to section 351 or reorganization of FSub 21 pursuant to section 368 that occurs in connection with the establishment of a global holding company structure for the foreign members of the Controlled SAG following the Proposed Transaction. Cf. Rev. Rul. 2003-79, 2003-2 C.B. 80; Rev. Rul. 98-27, 1998-1 C.B. 1159.

### *Sub 15 Separation*

- (10a) The Sub 15 Contribution, together with the Sub 15 Distribution, will be a reorganization within the meaning of section 368(a)(1)(D). Sub 11 and Sub 15 each will be “a party to a reorganization” within the meaning of section 368(b).
- (10b) Sub 11 will recognize no gain or loss upon the Sub 15 Contribution. Section 361(a).
- (10c) Sub 15 will recognize no gain or loss upon the Sub 15 Contribution. Section 1032(a).
- (10d) Sub 15’s basis in each asset received in the Sub 15 Contribution will equal the basis of that asset in the hands of Sub 11 immediately before the Sub 15 Contribution. Section 362(b).
- (10e) Sub 15’s holding period in each asset received in the Sub 15 Contribution will include the period during which such asset was held by Sub 11. Section 1223(2).
- (10f) Sub 11 will recognize no gain or loss upon the Sub 15 Distribution. Section 361(c).
- (10g) Sub 11 will recognize gain, if any, upon the FSub Securities Distribution in an amount equal to the difference between the fair market value of the FSub Securities and Sub 11’s adjusted basis in the FSub Securities as if such securities had been sold to Distributing. Section 361(c)(2).

- (10h) Distributing will recognize no gain or loss (and no amount will be includible in its income) upon the Sub 15 Distribution. Section 355(a)(1).
- (10i) Distributing will be treated as having received in the FSub Securities Distribution, as a distribution of property to which section 301 applies, an amount equal to the fair market value of the FSub Securities. Section 356(b). The amount of the FSub Securities Distribution will not be included in the gross income of Distributing to the extent that Distributing makes a corresponding negative adjustment to the basis of its Sub 11 stock. Sections 1.1502-13(f)(2)(ii) and 1.1502-32(b)(2) and (3).
- (10j) The basis of the Sub 15 stock and the Sub 11 stock in the hands of Distributing immediately after the Sub 15 Distribution will equal the basis of the Sub 11 stock owned by Distributing immediately before the Sub 15 Distribution (as adjusted in connection with the FSub Securities Distribution), allocated between the stock of Sub 11 and Sub 15 in proportion to the fair market value of each in accordance with § 1.358-2(a)(2)(iv). Section 358(a), (b)(2), and (c). Distributing's basis in the FSub Securities immediately after the FSub Securities Distribution will equal the fair market value of the FSub Securities. Sections 301(d) and 358(a)(2), and § 1.358-1(a).
- (10k) Distributing's holding period in the Sub 15 stock received in the Sub 15 Distribution will include the holding period of the Sub 11 stock with respect to which the Sub 15 Distribution is made, provided that Distributing holds the Sub 11 stock as a capital asset on the date of the Sub 15 Distribution. Section 1223(1).
- (10l) Sub 11's earnings and profits (as adjusted under section 312 in connection with the FSub Securities Distribution) will be allocated between Sub 11 and Sub 15 in accordance with section 312(h) and §§ 1.312-10(a) and 1.1502-33(f)(2).
- (10m) Except for purposes of section 355(g), any payments made between Sub 11 (or its affiliates) and Sub 15 (or its affiliates) pursuant to the Continuing Arrangements with respect to liabilities, indemnities, or other obligations that (i) have arisen or will arise for a taxable period ending on or before the Sub 15 Distribution or for a taxable period beginning before but ending after the Sub 15 Distribution, and (ii) will not become fixed and ascertainable until after the Sub 15 Distribution, will be treated for U.S. federal income tax purposes as occurring immediately before the Sub 15 Distribution. Cf. *Arrowsmith v. Commissioner*, 344 U.S. 6 (1952); Rev. Rul. 83-73, 1983-1 C.B. 84.

- (11a) The Contribution, together with the External Distribution, will be a reorganization within the meaning of section 368(a)(1)(D). Distributing and Controlled each will be “a party to a reorganization” within the meaning of section 368(b).
- (11b) Distributing will recognize no gain or loss upon the Contribution. Sections 357(a) and 361(a). Any Global Assumed Deductible Liabilities will be excluded in determining the amount of liabilities of Distributing assumed by Controlled for purposes of sections 357(c), 358(d), and 361(b)(3).
- (11c) Controlled will recognize no gain or loss upon the Contribution. Section 1032(a).
- (11d) Controlled’s basis in each asset received in the Contribution will equal the basis of that asset in the hands of Distributing immediately before the Contribution. Section 362(b).
- (11e) Controlled’s holding period in each asset received in the Contribution will include the period during which such asset was held by Distributing. Section 1223(2).
- (11f) Distributing will recognize no gain or loss upon the distribution of the Controlled stock in the External Distribution. Section 361(c).
- (11g) Distributing will recognize no income, gain, loss, or deduction upon the distribution of the Controlled Securities in the Debt-for-Debt Exchange or the Controlled Loans in the Committed Exchange, other than any (i) deductions attributable to the redemption of the Distributing Date 1 Debt at a premium, (ii) income attributable to the redemption of the Distributing Date 1 Debt at a discount, or (iii) interest expense accrued with respect to the Distributing Date 1 Debt. Section 361(c).
- (11h) Distributing’s shareholders will recognize no gain or loss (and no amount will be includible in their income) upon the receipt of Controlled stock (including any fractional share interest to which Distributing’s shareholders may be entitled) in the External Distribution. Section 355(a)(1).
- (11i) To the extent the External Distribution consists of a One-Step Distribution or a Clean Up Distribution, the basis of the Controlled stock (including any fractional share interest to which the Distributing shareholders may be entitled) and the Distributing stock in the hands of Distributing’s shareholders immediately after the One-Step Distribution or the Clean Up Distribution will equal the basis of the Distributing stock owned by Distributing’s shareholders immediately before the One-Step Distribution or the Clean Up Distribution, as

- the case may be, allocated between the stock of Distributing and Controlled in proportion to the fair market value of each in accordance with § 1.358-2(a)(2)(iv). Section 358(a), (b)(2), and (c). To the extent the External Distribution consists of one or more Exchange Offers, the basis of the Controlled stock (including any fractional share interest to which the Distributing shareholders may be entitled) in the hands of Distributing's shareholders immediately after such Exchange Offer will equal the basis of the Distributing stock exchanged therefor, allocated in accordance with § 1.358-2(a)(1)(i). Section 358(a), (b)(2), and (c).
- (11j) A Distributing shareholder's holding period in the Controlled stock (including any fractional share interest to which a Distributing shareholder may be entitled) received in the External Distribution will include the holding period of the Distributing stock exchanged therefor or with respect to which the External Distribution is made, provided that the Distributing shareholder holds the Distributing stock as a capital asset on the date the Controlled stock is received. Section 1223(1).
- (11k) The receipt by Distributing's shareholders of cash in lieu of fractional shares of Controlled stock will be treated for U.S. federal income tax purposes as if the fractional shares had been distributed to Distributing's shareholders in the External Distribution and then had been disposed of by such shareholders for the amount of such cash in a sale or exchange pursuant to which gain or loss is recognized under section 1001. If the fractional share interest is a capital asset in the hands of the recipient shareholder, the gain or loss will constitute capital gain or loss. Sections 1221 and 1222.
- (11l) Distributing's earnings and profits will be allocated between Distributing and Controlled in accordance with section 312(h) and §§ 1.312-10(a) and 1.1502-33(e)(3).
- (11m) Except for purposes of section 355(g), any payments made between Distributing (or its affiliates) and Controlled (or its affiliates) pursuant to the Continuing Arrangements with respect to liabilities, indemnities, or other obligations that (i) have arisen or will arise for a taxable period ending on or before the External Distribution or for a taxable period beginning before but ending after the External Distribution, and (ii) will not become fixed and ascertainable until after the External Distribution, will be treated as occurring immediately before the External Distribution. Cf. *Arrowsmith v. Commissioner*, 344 U.S. 6 (1952); Rev. Rul. 83-73, 1983-1 C.B. 84.
- (11n) Following the External Distribution, Controlled will not be a successor of Distributing for purposes of section 1504(a)(3). Controlled and its direct and indirect subsidiaries that are "includible corporations" under section 1504(b)

and satisfy the ownership requirements of section 1504(a)(2) will be members of an affiliated group of corporations entitled to file a consolidated U.S. federal income tax return with Controlled as the common parent.

### Caveats

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter. We express no opinion about the tax treatment of the Proposed Transaction under other provisions of the Code and the Treasury regulations or the tax treatment of any condition existing at the time of, or effect resulting from, the Proposed Transaction that is not specifically covered by the above Rulings. In particular, no opinion is expressed or implied regarding:

- (i) Whether the External Distribution or any of the Internal Distributions satisfies the business purpose requirement of § 1.355-2(b);
- (ii) Whether the External Distribution or any of the Internal Distributions is being used principally as a device for the distribution of the earnings and profits of any distributing corporation or any controlled corporation or both (see section 355(a)(1)(B) and § 1.355-2(d));
- (iii) Whether the External Distribution or any of the Internal Distributions and any acquisition or acquisitions are part of a plan (or series of related transactions) under section 355(e)(2)(A)(ii);
- (iv) Whether the Global Assumed Deductible Liabilities are, in fact, liabilities that will give rise to a deduction by Controlled for U.S. federal income tax purposes;
- (v) The tax consequences under section 304 of any acquisitions of stock by related corporations;
- (vi) The tax consequences under subchapter K of any transactions involving partnerships;
- (vii) The tax treatment under § 1.1502-13 of any transaction involving an intercompany obligation;
- (viii) The tax treatment of any continuing transactions between Distributing and Controlled and/or their respective subsidiaries that will be provided on a cost, cost-sharing, cost-plus, or royalty-free basis, including the potential application of section 482 to these transactions; and

- (ix) The tax consequences under section 367 of any transaction described in this ruling letter.

#### Procedural Statements

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representatives.

Sincerely,

*Frances L. Kelly*

Frances L. Kelly  
Senior Counsel, Branch 2  
Office of Associate Chief Counsel  
(Corporate)

cc: